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PART V.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of State on the 28th February, 1922 :—

No. 4 OF 1922.

THE INDIAN MERCHANT SHIPPING (CONSOLIDATION) BILL.

TABLE OF CONTENTS.

PART I.

INTRODUCTORY.

SECTIONS.

1. Short title and commencement.
2. Definitions.
3. Application of Act to ships propelled by electricity or mechanical power.
4. Exemption of public ships.

PART II.

MASTERS AND SEAMEN.

5. Application.
- Shipping Offices.*
6. Shipping Offices
7. Power to direct that business of shipping office be transacted at customs-house office or elsewhere.

SECTIONS.

8. Business of shipping-masters.
9. Fees to be paid.
10. Prohibition on taking other remuneration at shipping office.
- Certificates of Competency.*
11. Certificates of competency to be held by officers of foreign-going and home-trade ships and foreign passenger ships.
12. When officer deemed duly certificated.
13. Penalty for serving, etc., as a master, mate or engineer without a certificate.
14. Grades of certificates of competency.
15. Examinations for certificates
16. Grant of certificates on passing examinations.
17. Certificates of service of Naval Officers.
18. Form of certificates.
19. Record of orders affecting certificates.
20. Loss of certificate.
21. Power to make rules as to grant of certificates of competency
22. Production of certificates of competency to shipping master.

Apprenticeships to the Sea Service.

SECTIONS.

23. Application of Act XIX of 1850.

Licences to supply Seamen.

24. Licences to supply seamen.

25. Penalties for engaging seamen without licence.

26. Penalty for receiving remuneration from seamen for shipping them.

Engagement of Seamen.

27. Agreements with crew.

28. Form and contents of the agreement

29. Engagement of single seaman where agreement is made out of British India.

30. Special provisions with regard to agreements with crew of foreign-going ships.

31. Renewal of running agreements in certain cases.

32. Special provisions as to agreements with crew of home-trade ship over three hundred tons burden.

33. Changes in crew of foreign-going ship to be reported.

34. Certificate as to agreement with crew of foreign-going ship.

35. Certificate as to agreement with crew of home-trade ship.

36. Copy of agreement to be made accessible to the crew.

37. Alteration in agreement with the crew.

Engagement of Lascars by Masters of Foreign Ships.

38. Engagements between masters of foreign ships and lascars or native seamen.

39. Penalty for master of foreign ship illegally engaging native seamen.

40. Power to prohibit engagement of native seamen.

41. Power to board British ships and muster seamen.

Discharge of Seamen.

42. Discharge before shipping-master.

43. Certificate of discharge and return of certificate to officer on discharge.

Payment of Wages

44. Master to deliver account of wages.

45. Deductions from wages of seamen.

46. Payment of wages before shipping-master.

47. Time of payment of wages.

48. Settlement of wages.

49. Decision of questions by shipping-masters.

50. Power of shipping-master to require production of ship's papers.

51. Rate of exchange for payment of seamen in British Indian money.

Advance and Allotment of Wages.

52. Advances and allotments.

SECTIONS.

53. Regulations as to allotment notes.

54. Payment of sums allotted.

Rights of Seamen in respect of Wages.

55. Right to wages and provisions.

56. Right to recover wages and salvage not to be forfeited.

57. Wages not to depend on freight.

58. Wages on termination of service by wreck or illness.

59. Wages not to accrue during refusal to work or imprisonment.

60. Power to deduct from wages cost of procuring conviction.

61. Compensation to seamen.

62. Restriction on sale of, and charge upon, wages.

Mode of recovering Wages.

63. Summary proceedings for wages.

64. Restriction on suits for wages.

65. Remedies of masters for wages.

Property of deceased Seamen.

66. Master to take charge of the effects of deceased seamen.

67. Disposal of property of seamen who die during the voyage.

68. Penalty for non-compliance with provisions as to property of deceased seamen.

69. Payment over property of deceased seamen by shipping-master.

70. Disposal of unclaimed property of deceased seamen.

Distressed Seamen.

71. Relief of distressed seamen to whom Merchant Shipping Acts apply.

72. Recovery of wages, etc., of distressed seamen under the Merchant Shipping Acts.

Relief of distressed Seamen to whom the Merchant Shipping Acts do not apply.

73. Provisions of the Act not to apply to seamen or apprentices to whom the Merchant Shipping Act applies.

74. Relief of distressed seamen at British Indian ports.

75. Distressed seamen to be sent home on board British ship wanting seamen to make up its crew.

76. Name and other particulars with regard to seamen to be indorsed on agreement of British ship.

77. Master of British ship compelled to convey and give subsistence to such seamen.

78. Conditions under which master may claim payment.

79. Wages and expenses incurred in respect of distressed seamen to be charged on ship to which they belong in certain cases.

SECTIONS.

80. Mode of recovering such wages and expenses.
81. Local Government may authorise persons to recover same.
82. Board of Trade may recover such amount from master or owner in certain cases.
83. What shall be evidence of distress and expenses incurred.
84. Power of Governor General in Council to make rules.

Provisions, Health and Accommodation.

85. Complaints as to provisions or water.
86. Allowance for short or bad provisions.
87. Medicines to be provided and kept on board certain ships.
88. Weights and measures on board.
89. Expenses of medical attendance in case of illness.
90. Accommodation for seamen.
91. Inspection of medicines and appliances and accommodation.

Facilities for making Complaints.

92. Facilities for making complaints.

Protection of Seamen from Imposition.

93. Assignment or sale of salvage invalid.
94. No debt exceeding three rupees recoverable till end of voyage.
95. Penalty for overcharges by lodging-house-keepers.
96. Penalty for detaining seamen's effects.
97. Penalty for solicitations by lodging-house-keepers.
98. Penalty for being on board ship without permission before seamen leave.

Provisions as to Discipline.

99. Misconduct endangering life or ship.
100. Desertion and absence without leave.
101. Conveyance of deserter or imprisoned seamen on board ship.
102. Power to Court to order offender to be taken on board ship.
103. General offences against discipline.
104. Penalty for false statements as to last ship or name.
105. Entry of offences in official log.
106. Report of desertions and absences without leave.
107. Entries and certificates of desertion abroad.
108. Facilities for proving desertion in proceedings for forfeiture of wages.
109. Application of forfeitures.
110. Decision of questions of forfeiture and deduction in suits for wages.
111. Ascertainment of amount of forfeiture out of wages.

SECTIONS.

112. Payment of fines imposed under agreement to shipping-master.
113. Penalty for enticing to desert.
114. Penalty for harbouring deserters.
115. Penalty on stowaways and discipline of stowaways and seamen carried under compulsion.
116. Procedure where seaman or apprentice not shipped in British India is imprisoned on complaint of master or owner.
117. Power to send on board seaman or apprentice not shipped in British India who is undergoing imprisonment.
118. On change of master, documents to be handed over to successor.

Leaving Seamen or Apprentices in British India.

119. Discharge or leaving behind in British India of seamen or apprentices not shipped in British India.

Official Logs.

120. Official logs to be kept and to be dated.
121. Entries required in official log book.
122. Offences in respect of official logs.
123. Delivery of official logs to shipping-masters.
124. Official logs to be sent to shipping-master in case of transfer of ship and in case of loss.

PART III.

PASSENGER SHIPS.

Survey of Passenger Ship.

125. No steam-ship to carry passengers without a certificate of survey.
126. Power for Local Government to exempt certain steam-ships.
127. No port-clearance until certificate of survey produced.
128. Power to detain steam-ship not having certificate of survey.
129. Appointment of surveyors and ports of survey.
130. Powers of surveyor.
131. Fees in respect of surveys.
132. Power for Local Government to direct that two surveyors be employed.
133. Division of duties when two surveyors employed.
134. Declaration of surveyor.
135. Sending of declaration by owner or master to Local Government.
136. Grant of certificate of survey by Local Government.
137. Power for Local Government to order a second survey.
138. Duration of certificates of survey.

SECTIONS

- 139. Cancellation or suspension of certificate of survey by Local Government.
- 140. Power to require delivery of expired or cancelled certificate of survey.
- 141. Report of cancellation or suspension of certain certificates
- 142. Certificate of survey to be affixed in conspicuous part of steamship.
- 143. Penalty for carrying passengers in contravention of the Act.
- 144. Steam-ships with foreign certificates of survey or certificates of partial survey.
- 145. Power for Local Government to make rules as to surveys.

Provisions in case of wreck of ship carrying steerage passengers.

- 146. Application of certain sections of Merchant Shipping Act, 1894, in case of wreck of ship carrying steerage passengers on certain voyages.

PART IV.

NATIVE PASSENGER SHIPS AND PILGRIM SHIPS.

- 147. Application of Part.
- 148. Power to exempt ship from provisions of Part IV.
- 149. Definitions.

General provisions as to Native Passenger and Pilgrim Ships.

- 150. Places appointed by the Government.
- 151. Notice to be given of day of sailing.
- 152. Power to enter on and inspect ship.
- 153. Ship not to sail without two certificates.
- 154. Contents of certificate A.
- 155. Contents of certificate B.
- 156. Supply by passengers of their own food.
- 157. Grant of certificates.
- 158. Substitute for certificate A.
- 159. Survey of ship.
- 160. Discretion as to grant of certificate.
- 161. Copy of certificates to be exhibited.
- 162. Penalty for ship unlawfully departing or receiving passengers on board.
- 163. Penalty for opposing entry on, or inspection of, ships.
- 164. Penalty for not exhibiting copy of certificates.
- 165. Penalty for fraudulent alteration in ship after certificate obtained.
- 166. Penalty for failing to supply native passengers or pilgrims with prescribed provisions.
- 167. Penalty for having excessive number of passengers on board.
- 168. Penalty for landing native passenger or pilgrim at a place other than that at which he has contracted to land.

SECTIONS

- 169. Penalty for making voyage in contravention of contract.
- 170. Information to be sent to ports of embarkation and discharge.
- 171. Report of Consul.
- 172. Authority to institute proceedings for penalties.
- 173. Appointment of officers.

Special Provisions relating to Native Passenger Ships.

- 174. Definitions.
- 175. Power to declare what shall be deemed "seasons of fair weather", "seasons of foul weather", and "long voyages" and "short voyages".
- 176. Space to be available for passengers.
- 177. Ship taking additional passengers at intermediate place.
- 178. Deaths on voyage.

Rules for long Voyages.

- 179. Space to be available for passengers.
- 180. Statements concerning passengers.
- 181. Deaths on voyage
- 182. Ship taking additional passengers at intermediate place.

Voyages between British India and the Red Sea.

- 183. Certain ships to be propelled by steam.
- 184. Certain ships to carry medical officer.
- 185. Ships carrying passengers to or from port in Red Sea to touch at Aden.
- 186. Bill of health at Aden.
- 187. Bond where ship clears for port in Red Sea.
- 188. Power for Local Government to direct medical inspection of passengers.
- 189. Penalty for not complying with requirements as to statements concerning passengers and certain other matters.
- 190. Penalty for bringing passengers from foreign port in excess of authorised number.
- 191. Power for Governor General in Council and Local Government to make rules.
- 192. Power to prescribe space to be available for passengers.

Special Provisions regarding Pilgrim Ships.

- 193. Space to be provided for pilgrims.
- 194. Disposal of pilgrims' baggage.
- 195. Hospital accommodation.
- 196. Statement concerning pilgrims to be delivered before ship departs.
- 197. Deaths on voyage.
- 198. Pilgrim ship taking additional pilgrims at intermediate place.

SECTIONS.

199. Statement concerning pilgrims to be delivered before pilgrims disembark in British India.
200. Pilgrim ships to be propelled principally by steam and to be of certain tonnage and steam-power.
201. Certain pilgrim ships to carry medical officers and attendants.
202. Medical officers' diaries and reports.
203. Pilgrim ships to touch at Aden on the outward voyage
204. When authority at Aden may refuse to let ship leave.
205. Bond where pilgrim ship proceeds on outward voyage
206. Medical inspection and permission required before embarkation of pilgrims.
207. Medical inspection after embarkation in certain cases
208. Medical inspection of women.
209. Issue and production of tickets and refund of passage money.
210. Sanitary taxes payable by master of pilgrim ship.
211. Penalty on master for not complying with requirements as to statements concerning pilgrims and certain other matters.
212. Penalty on master or medical officer of pilgrim ship disobeying rules under this Act.
213. Power for Governor General in Council and Local Government to make rules.

PART V.

SAFETY.

Prevention of Collisions.

214. Appointment of inspectors of lights and fog-signals.
215. Notice of deficiency to be given to master or owner by such inspectors.
216. Ship not to be cleared by Customs-collector till inspector certifies it is properly provided with lights, etc.

Draught of water and Load-line.

217. Marking of deck-lines.
218. Marking of load-lines.
219. Ships with submerged load-lines deemed unsafe.
220. Time of marking load-line in case of foreign-going vessels.
221. Time for marking load-line in case of coasting vessels.
222. Penalty for offences relating to marking of load-line.
223. Power to appoint officer to certify position of disc.
224. Power to make rules.

SECTIONS.

Grain Cargoes.

225. Stowage of cargo of grain, etc.
226. Penalty for improper stowage of such cargo.

Savings.

227. Saving for certain ships.
228. Power to exclude or re-include certain classes of ships.

Unseaworthy Ships.

229. Every person sending unseaworthy ship to sea liable to penalty
230. Unseaworthy ships
231. Obligation of owner to crew with respect to seaworthiness.

Detention of unsafe ships by the Local Government.

232. Power to detain unsafe ship and procedure for detention.

Costs of detention and damages incidental thereto.

233. Liability of Government for costs and damages when ship wrongly detained.
234. Liability of ship owner for costs when ship rightly detained.
235. What included in costs of detention and survey
236. Power to require from complainant security for costs, etc.
237. Costs, etc., payable by Government recoverable from complainant.
238. Application to foreign ships of provisions as to detention.
239. Delegation of powers to Port Commissioners, etc.

Installation of Wireless Telegraphy.

240. Commencement.
241. Definitions.
242. Wireless telegraphy requirements.
243. Appointment and powers of wireless telegraphy inspectors.
244. Application to ships other than British ships registered in India.
245. Power to make rules.

PART VI.

SPECIAL SHIPPING INQUIRIES AND COURTS.

246. Shipping casualties and report thereof.
247. Report of shipping casualties to the Local Government.
248. Power for Local Government to appoint special Court of Investigation.

SECTIONS.

249. Power for other Courts to hold investigations into casualties when so directed.
250. Power for Court of Investigation to inquire into charges against masters, mates and engineers.
251. Power for Local Government to direct investigation into charges of incompetency or misconduct.
252. Person accused to be heard.
253. Powers of Courts as to evidence and regulation of proceedings.
254. Assessors.
255. Power to arrest witnesses and cause entry and detention of vessels.
256. Power to commit for trial and bind over witnesses.
257. Report by Court to Local Government.

Suspension and cancellation of certificates and grant of fresh certificates

258. Saving of power to cancel and suspend certificates and remove master under English Acts.
259. Power to issue local certificates in lieu of cancelled or suspended certificates.
260. Power for Local Government to suspend or cancel certificates in certain cases.
261. Report to other Local Governments.
262. Report to Board of Trade.
263. Power to revoke cancellation or suspension and grant new certificate.
264. Power of Court of Investigation or Inquiry as to certificates granted by a Local Government.
265. Power to remove master and appoint a new master.
266. Delivery of certificate cancelled or suspended.

Investigations into Explosions.

267. Power to investigate causes of explosions on board steam-ships.

Courts of Survey.

268. Constitution of Court of Survey.
269. Powers and procedure of Court of Survey.
270. Power of Local Government to make rules with respect to Court of Survey.

Scientific Referees.

271. Reference in difficult cases to scientific persons.

PART VII.

WRECK AND SALVAGE.

272. "Wreck" defined.
273. Appointment of receivers.
274. Rules to be observed by persons finding wreck.

SECTIONS.

275. Government or person finding wreck entitled to salvage.
276. Notice to be given by receiver.
277. Wreck may in certain cases be sold.
278. Proceeds how applied.
279. Savings.

PART VIII.

LEGAL PROCEEDINGS.

280. Certain persons to be deemed Public Servants.
281. Jurisdiction of Magistrates.
282. Place of trial of the offender.
283. Depositions to be received in evidence when witnesses cannot be produced.
284. Enforcing detention of ship.
285. Levy of wages, etc., by distress of moveable property.
286. Levy of wages, fines, etc., by distress of ship.
287. Service of documents.
288. Application of fines.

PART IX

SUPPLEMENTAL.

289. Powers to see Act is complied with.

Ship Surveyors.

290. Power to appoint examiners and to make rules as to qualifications of ship surveyors.
291. No person to practise as ship surveyor unless qualified.
292. Penalty for practising as ship surveyor without certificate.
293. Powers of person appointed or authorised to survey ship.
294. Provisions with respect to rules.
295. Protection to persons acting under Act.
296. Repeals.

SCHEDULE I.—Tables A and B.

SCHEDULE II.—Rates of fees payable in respect of survey of Steam-ships.

SCHEDULE III.—Part I (Applied sections of the Merchant Shipping Act, 1894).

Part II (Form of Governor's or Consul's certificate of expenditure in the case of passengers shipwrecked, etc.).

SCHEDULE IV.—Declaration between the Government of the United Kingdom and the Government of the French Republic, etc., etc.

SCHEDULE V.—Enactments repealed.

A Bill to consolidate certain enactments relating to Merchant Shipping.

WHEREAS it is expedient to consolidate certain enactments relating to Merchant Shipping; It is hereby enacted as follows:—

PART I.

INTRODUCTORY.

1. (1) This Act may be called the Indian Merchant Shipping Act, 1922.
Short title and commencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

- (1) "effects" includes clothes and documents;
- (2) "foreign-going ship" means a ship, not being a home-trade ship, employed in trading between any port in British India and any other port or place;
- (3) "home-trade ship" means a ship employed in trading between any ports in British India or between any port in British India and any port or place on the continent of India or in the Straits Settlements, or in the Island of Ceylon;
- (4) "master" includes every person (except a pilot or harbour master) having command or charge of a ship;
- (5) "Merchant Shipping Acts" mean the Merchant Shipping Acts, 1894—1921;
- (6) "passenger" includes any person carried in a ship other than the master and crew and the owner, his family and servants;
- (7) "prescribed" means prescribed by rules made under this Act;
- (8) "seaman" means every person (except masters, pilots and apprentices duly indentured and registered) employed or engaged in any capacity on board any ship;
- (9) "steam-ship" means every description of vessel used in navigation and propelled wholly or in part by the agency of steam; and
- (10) "wages" includes emoluments.

3. The provisions of this Act applying to steam-ships shall apply to ships propelled by electricity or mechanical power, with such modifications as the Governor General in Council may, by notification in the Gazette of India, direct for the purpose of adaptation.

4. This Act shall not, except where specially provided, apply to ships belonging to His Majesty or the Government, or to ships belonging to any foreign Prince or State and used for the public purposes of that foreign Prince or State.

Act I of 1859, s. 114.
Act IX of 1879, s. 1.
Act VII of 1880, ss. 3 and 80.
Act V of 1883, s. 5.
Act VII of 1884, s. 5 (a).
Act X of 1887, s. (2) (i) (ii) (iii).
Act XXV of 1919, ss. 2 and 3.
M. S. A., s. 141.

PART II

MASTERS AND SEAMEN.

5. (1) The provisions of this Part relating to the requirement of masters and mates to hold certificates of competency shall not apply to ships registered under the Indian Registration of Ships Act, 1841, and trading between ports in India and the coast of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars or other Asiatic masters and seamen.

Act V of 1883, s. 32.
M. S. A., s. 261.

(2) Save as hereinbefore provided in this section, this Part shall, unless there is anything repugnant in the subject or context, apply to British ships and to the owners, masters and crews thereof as follows:—

(a) The provisions relating to licences to supply seamen, engagement of the crew, agreements with lascars, discharge of seamen, payment of wages, advance and allotment of wages, mode of recovering wages, and recovery of expenses of relief of distressed seamen, shall apply to every sea-going ship in British India.

(b) The provisions relating to the property of deceased seamen and apprentices shall apply to every sea-going ship, not being a ship registered in the United Kingdom or a ship employed in trading or going from or to any port in the United Kingdom, where the crew are discharged or the final port of destination of the ship is in British India.

(c) The provisions relating to the rights of seamen in respect of wages, to the return of distressed seamen, to the provisions and health of seamen, to the power of seamen to make complaints, to the protection of seamen from imposition and to discipline shall apply to sea-going ships registered in British India, while such ships are in British India.

(d) The provisions relating to official logs shall apply to sea-going ships registered in British India, and to any sea-going ship, not being a ship registered in the United Kingdom, employed in trading or going between any port in British India and any port not situated in the part of His Majesty's dominions in which the ship is registered other than in the United Kingdom.

M. S. A., 742.

Act I of 1859, s. 118, as amended by Act VI of 1891, s. 5.
Ditto.

Act VII of 1880, s. 2.
M. S. A., s. 148.

Act VII of 1884, s. 3.

Act VII of 1880, s. 4.
Act II of 1884, s. 3.

Act I of 1859, s. 118.
Act XIII of 1876, s. 2.

Act VII of 1880, s. 3.

M. S. A., 742.
Act VII of 1884, s. 41, inserted by Act I of 1890, s. 5.
M. S. A., 743.

57 & 58
V. et. c. 60.

(3) The provisions of this Part, in so far as they are adaptations of the provisions of Part II of the Merchant Shipping Act, 1894, and are not local in their application, have, by virtue of section 264 of the Merchant Shipping Act, 1894, effect throughout His Majesty's dominions and in all places where His Majesty has jurisdiction, as well as in British India.

Shipping Offices.

Act I of
1859, ss. 2
and 3.
M. S. A.,
ss. 246 (3)
and 247 (2).

6. (1) Shipping offices shall be maintained at every port in British India where there is a shipping office at the commencement of this Act, and may be established and maintained at such other ports as the Governor General in Council may deem necessary.

(2) For every such office there shall be a shipping-master with such deputy shipping-masters, clerks and servants (if any) as the Local Government may consider necessary.

Act I of
1859, s. 8.

(3) Shipping-masters and deputy shipping-masters shall be appointed by the Local Government, and shall respectively be subject to the control of that Government or of any intermediate authority which it may appoint.

(4) Every act done by or before a deputy shipping-master shall have the same effect as if done by or before a shipping-master.

Act I of
1859, s. 8.
Cf.
M. S. A.,
s. 246 (3).

7. (1) The Local Government may direct that at any port at which business of shipping office be transacted at custom house office or elsewhere. no separate shipping office is established, the whole or any part of the business of the shipping office shall be conducted at the custom house, or at the office of the port officer, or at such other office as the Local Government shall direct, and thereupon the same shall be conducted accordingly.

(2) In respect of such business such custom house or office as aforesaid shall for all purposes be deemed to be a shipping office, and the officer to whom such business is committed shall for all purposes be deemed to be a shipping-master within the meaning of this Act.

Act I of
1859, s. 4.
M. S. A.,
ss. 105, 247.

8. It shall be the general business of shipping-masters—

- (i) to superintend and facilitate the engagement and discharge of seamen in manner in this Act provided;
- (ii) to provide means for securing the presence on board at the proper times of the seamen who are so engaged;
- (iii) to give to all persons desirous of apprenticing boys to the sea service and duly authorised so to do by the Apprentices Act, 1850, and also to owners and masters of British ships requiring apprentices, such assistance as may be in their power for facilitating the making of such apprenticeships;
- (iv) to perform such other duties relating to seamen, apprentices and merchant ships as are for the time being committed to them by or under this Act or the Merchant Shipping Acts.

XIX of 1850.

9. (1) Such fees, not exceeding the sum specified in Table A in Schedule I, as may be fixed by the Local Government shall be payable upon all engagements and discharges effected before shipping-masters.

(2) Scales of the fees payable for the time being shall be conspicuously placed in the shipping office, and all shipping-masters, their deputies, clerks and servants, may refuse to proceed with any engagement unless the fees payable thereon are first paid.

(3) Every owner or master of a ship engaging or discharging any seaman in a shipping office or before a shipping-master, shall pay to the shipping-master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain any sums not exceeding the sums specified in that behalf in Table B, in Schedule I:

Provided that, if in any cases the sums which the owner is so entitled to deduct, exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping-master in addition to such fee.

(4) For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements as hereinafter provided, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

10. If a shipping-master, deputy shipping-master, clerk or servant in a shipping office demands or receives, other than the fees authorised under this Act, any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for a ship or transacting any business which it is his duty to transact, he shall be liable for every such offence to a fine which may extend to two hundred rupees, and shall also be dismissed from his office.

Certificates of Competency.

11. (1) Every British foreign-going ship and every British home-trade ship of three hundred tons or upwards when going to sea from any place in British India shall be provided with officers duly certificated under this Act according to the following scale, namely:—

- (a) in any case, with a duly certificated master;
- (b) if the ship is of three hundred tons or upwards, with at least one officer besides the master holding a certificate not lower than that of a mate.

Act I of
1859, ss. 5,
6, 25 and
116.

Act I of
1859, s. 6.

Act I of
1859, s. 25.

Act I of
1859, s. 7.
M. S. A.,
s. 250.

Act I of
1859, s. 18.
M. S. A.,
s. 92.

(2) Every British foreign-going steamship when going to sea from any place in British India shall be provided with engineers duly certificated under this Act according to the following scale, namely :—

(a) if the ship is of one hundred nominal horse-power or upwards, with at least two engineers, one of whom shall be a first class and the other a first class or second class engineer duly certificated ;

(b) if the ship is of less than one hundred nominal horse-power, with at least one engineer who is a first class or second class engineer duly certificated.

(3) Every British home-trade steam-ship when going to sea from any place in British India and every foreign steam-ship carrying passengers between places in British India shall be provided with engineers duly certificated according to the following scale, namely :—

(a) if the ship is of fifty nominal horse-power or upwards, with at least one engineer who is a first class or second class engineer duly certificated ;

(b) if the ship is of less than fifty nominal horse-power, with at least one engineer who is a first class or second class engineer, or an engine driver duly certificated.

(4) Nothing in this section which relates to engineers or engine drivers shall apply to any steam-ship to which the provisions of the Inland Steam-vessels Act, 1917, apply.

12. An officer shall not be deemed to be duly certificated under this Act, unless he holds a certificate of a grade appropriate to his station in the ship or of a higher grade,

(a) granted in accordance with the Merchant Shipping Acts or any Act repealed thereby or this Act or any Act repealed hereby ; or

(b) issued by a competent authority in any British possession, the certificates of which have been declared by Order in Council made under section 102 of the Merchant Shipping Act, 1894, to have the same force as if they were granted under that Act.

13. Any person who—

Penalty for serving, etc., as a master, mate or engineer without a certificate.

(a) having been engaged as one of the officers mentioned in section 11, goes to sea as such officer without being duly certificated, or

(b) employs a person as an officer in contravention of section 11, without ascertaining that the person so serving is duly certificated,

shall be liable for each such offence to a fine which may extend to five hundred rupees.

14. (1) Certificates of competency shall be granted in accordance with this Act for each of the following grades, namely :—

Master of foreign-going ship.

First mate of foreign-going ship.

Second mate of foreign-going ship.

Master of a home-trade ship.

Mate of a home-trade ship.

First class engineer.

Second class engineer.

Engine driver.

(2) A certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last-mentioned ship ; but no certificate for a home-trade ship shall entitle the holder to go to sea as master or mate of a foreign-going ship.

15. The Local Government or a person duly authorised by the Local Government in this behalf shall appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency under this Act.

16. The Local Government or such person shall deliver to every applicant, who is duly reported by the examiners to have passed the examination satisfactorily and to have given satisfactory evidence of his sobriety, experience and ability and general good conduct on board ship, such a certificate of competency as the case requires :

Provided that the Local Government may, in any case in which it has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character.

17. (1) A person who has attained the rank of Lieutenant, Sub-Lieutenant, Navigating Lieutenant, or Navigating Sub-Lieutenant in His Majesty's Navy, or of Lieutenant in the Royal Indian Marine, shall be entitled to a certificate of service as the master of a foreign-going ship without examination.

(2) A person who has attained the rank of engineer or assistant engineer in His Majesty's Navy or the Royal Indian Marine, shall be entitled without examination, if an engineer, to a certificate of service as first class engineer, and, if an assistant engineer, to a certificate of service as second class engineer.

(3) A certificate of service shall differ in form from a certificate of competency, and shall contain the name and rank of the person to whom it is delivered, and the Local Government shall deliver

Act VII of 1884, s. 31 (1).

Act VII of 1884, s. 31 (2).

Act VII of 1884, s. 33, of 1917.

M. S. A., s. 92 (3).

Act VI of 1884, s. 60.

Act I of 1859, s. 18, Act VII of 1884, s. 34, M. S. A., s. 92 (2).

24. (1) The Local Government or any Act of
 person duly authorised by 1859,
 Licences to supply the Local Government in s. 18.
 seamen. this behalf may grant to M. S. A.
 such persons as may be deemed fit licences to s. 110.
 engage or supply seamen for merchant ships in
 British India.

(2) Any such licence shall continue for such period, and may be granted and revoked on such terms and conditions as the Local Government think proper.

Act I of
1859,
s. 19,
M. S. A.,
s. 111.

25. (1) A person shall not engage or supply a seaman to be entered on board any ship in British India unless that person either holds a licence under this Act for the purpose, or is the owner or master or mate of the ship, or is *bonâ fide* the servant and in the constant employ of the owner, or is a shipping-master.

(2) A person shall not employ, for the purpose of engaging or supplying a seaman to be entered on board any ship in British India, any person unless that person either holds a licence under this Act for the purpose, or is the owner or master or mate of the ship, or is *bonâ fide* the servant and in the constant employment of the owner, or is a shipping-master.

(3) A person shall not receive or accept to be entered on board any ship any seaman if that person knows that the seaman has been engaged or supplied in contravention of this section.

(4) If a person acts in contravention of this section, he shall for each seaman in respect of whom an offence is committed be liable to a fine which may extend to one hundred rupees, and, if a licensed person, shall forfeit his licence.

Act I of
1859,
s. 20,
M. S. A.,
s. 112.

26. (1) A person shall not demand or receive, either directly or indirectly, from any seaman, or from any person seeking employment as a seaman, or from any person on his behalf, any remuneration whatever for providing him with employment other than the fees authorised by this Act.

(2) If a person acts in contravention of this section, he shall for each such offence be liable to a fine of fifty rupees, and, if a licensed person, shall forfeit his licence.

Engagement of Seamen.

Act V of
1883,
s. 26,
M. S. A.,
s. 113 (1).

27. (1) The master of every British ship, except home-trade ships of a burden not exceeding three hundred tons, shall enter into an agreement (in this Act called the agreement with the crew) in accordance with this Act with every seaman whom he engages in, and carries to sea as one of his crew from, any port in British India.

Act I of
1859, s. 28,
M. S. A.,
s. 113 (2).

(2) If a master of a ship carries any seaman to sea without entering into an agreement with him in accordance with this Act, the master shall for each offence be liable to a fine which may extend to fifty rupees.

Act V of
1883,
ss. 27,
28 and 29,
M. S. A.,
s. 114,
(1), (2) and
(3).

28. (1) An agreement with the crew shall be in a form sanctioned by the Governor General in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same.

(2) The agreement with the crew shall contain as terms thereof the following particulars, namely :—

- (a) either the nature and, as far as practicable, the duration of the intended voyage or engagement or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend ;
- (b) the number and description of the crew, specifying how many are engaged as sailors ;
- (c) the time at which each seaman is to be on board or to begin work ;
- (d) the capacity in which each seaman is to serve ;
- (e) the amount of wages which each seaman is to receive ;
- (f) a scale of the provisions which are to be furnished to each seaman, such scale being, in the case of lascars or other native seamen, not less than a scale to be fixed by the Local Government with the previous sanction of the Governor General in Council and published in the local official Gazette ;
- (g) any regulations as to conduct on board and as to fines, short allowance of provisions or other lawful punishments for misconduct, which have been sanctioned by the Governor General in Council as regulations proper to be adopted, and which the parties agree to adopt ; and
- (h) where it is agreed that the services of any Act V of lascar or other native seaman shall end at 1883, s. 29.

any port not in British India, a stipulation to provide him either fit employment on board some other ship bound to the port at which he was shipped or to such other port in British India as may be agreed on, or a passage to some port in British India free of charge or on such other terms as may be agreed upon, and in this provision the word "seaman" shall include also any native of British India carried to sea from any port in British India as one of the crew :

Provided that any such stipulation shall be signed by the owner of the ship or by the master on his behalf.

(3) The agreement with the crew shall be so framed as to admit of such stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of any enactment for the time being in force relating to Merchant Shipping) as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.

(4) If a master enters into an agreement with a lascar or other native seaman for a scale of provisions less than the scale fixed under this section, he shall be liable to a fine which may extend to two hundred rupees.

29. If the master of a ship registered at a port outside British India has an agreement with the crew made in due form according to the law of that port or of the port in which

Engagement of single seaman where agreement is made out of British India.

Act V of 1883, s. 30, M. S. A., s. 114(4).

her crew were engaged and engages a single seaman not being a lascar or other native seaman in any port in British India, the seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

30. (1) The following provisions shall have effect

Special provisions with regard to agreements with crew of foreign-going ships.

with respect to the agreements with the crew made in British India in the case of foreign-going ships registered either within or

without British India, namely:—

- (a) The agreement shall, subject to the provisions of this Act as to substitutes, be signed by each seaman in the presence of a shipping-master.
- (b) The shipping-master shall cause the agreement to be read over and explained to each seaman, in a language understood by him, or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.
- (c) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the shipping-master, and the other part shall be delivered to the master, and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship.
- (d) When a substitute is engaged in the place of a seaman who has duly signed the agreement and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, if practicable, be made before a shipping-master, and if not practicable the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute; and the substitute shall thereupon sign the same in the presence of a witness, who shall attest the signature.
- (e) The agreement may be made for a voyage of the ship or, if the voyages of the ship average less than six months in duration, may be made to extend over two or more voyages, and agreements so made are in this Act referred to as running agreements.
- (f) Save as otherwise provided in this section, running agreements shall not extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her port of destination in British India after such date, or the discharge of cargo consequent upon that arrival.
- (g) On every return to a port in British India before the final termination of a running agreement, the master shall discharge or engage before the shipping-master at such port any seaman whom he is required by law so to discharge or engage;

and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship leaves port, or that all those made have been made as required by law, and if the master wilfully makes a false statement in any such endorsement, he shall for each offence be liable to a fine which may extend to two hundred rupees.

- (h) The master shall deliver the running agreement so endorsed to the shipping-master, and the shipping-master shall, if the provisions of this Act relating to agreements have been complied with, sign the endorsement and return the agreement to the master.

(2) In the case of a ship—

- (a) registered in British India, or
- (b) registered in the United Kingdom but not employed in trading with any port in the United Kingdom,

a running agreement may be made to extend over two or more voyages so that it shall terminate either within six months from the date on which it was executed, or on the first arrival of the ship at her port of destination in British India after the expiration of that period, or on the discharge of cargo consequent upon such arrival, whichever of these dates shall be the latest:

Provided that no such agreement shall continue in force if, after the expiration of such period of six months as aforesaid, the ship proceeds on a voyage from a port out of British India to any other such port which is not on the direct road or a customary route to her port of destination in British India:

Provided, also, that every such agreement shall, in addition to any other particulars required by law, contain such stipulations for the discharge of the crew and payment of their wages, for securing their return to the port at which they were shipped or to some other port in British India, and for other purposes on the termination of the agreement at a port out of British India under the foregoing proviso, as the Governor General in Council may direct.

31. (1) When a running agreement has been

Renewal of running agreements in certain cases.

made with the crew of a foreign-going ship and the ship arrives after the next following thirtieth day of June or thirty-first day of December, as the case may be, or after the expiration of a period of six months from the date on which it was executed at a port of destination in British India which is not the port at which the crew have agreed to be discharged, the master may, with the previous sanction of the shipping-master, renew the agreement with the crew, or may be required by the shipping-master so to renew the agreement for the voyage from such port of destination to the port in British India at which the crew have agreed to be discharged.

Act I of 1859, s. 24 A, inserted by Act VI of 1891, s. 2, and amended by Act VI of 1906, s. 3.

(2) If the master of the ship is required by the shipping-master to renew the agreement as aforesaid and refuses so to renew it, any expenses

st of
59,
22,
S. A.,
15.

I of
9, s. 23.

I of
9, s. 24
S. A., s.
(7), (8)

which may be incurred by Government for the subsistence of the crew and their conveyance to the port at which they have agreed to be discharged shall be a charge upon the ship, and shall be recoverable as if they were expenses incurred in respect of distressed seamen under the provisions of this Act.

32. The following provisions shall have effect

Special provisions as to agreements with crew of home-trade ship over three hundred tons burden.

with respect to the agreements with the crew of home-trade ships for which an agreement with the crew is required under this Act, namely:—

- (a) Agreements may be made either for service in a particular ship or for service in two or more ships belonging to the same owner, but, in the latter case, the names of the ships and the nature of the ships and the nature of the service shall be specified in the agreement.
- (b) Crews or single seamen may, if the master thinks fit, be engaged before a shipping-master in the same manner as they are required to be engaged for service in foreign-going ships, but, if the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and, if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature.
- (c) An agreement for service in two or more ships belonging to the same owner may be made by the owner instead of by the master, and the provisions of this Act with respect to the making of the agreement shall apply accordingly.
- (d) Agreements shall not extend beyond the next following thirtieth day of June or thirty-first day of December or the first arrival of the ship at her final port of destination in British India after such date, or the discharge of cargo consequent on that arrival:

Provided that the owner or his agent may enter into time agreements in forms sanctioned by the Governor General in Council with individual seamen to serve in any one or more ships belonging to such owner, which agreements need not expire on either the thirtieth day of June or the thirty-first day of December.

33. (1) The master of every foreign-going ship, of which the crew has been engaged before a shipping-master, shall, before finally leaving British India, sign and send to the nearest shipping-master a full and accurate statement in a form sanctioned by the Governor General in Council, of every change which takes place in his crew before finally leaving British India, and that statement shall be admissible in evidence.

(2) If any master fails without reasonable cause to comply with the requirements of this section, he shall be liable for each offence to a fine which may extend to fifty rupees.

34. (1) In the case of a foreign-going ship, the master shall, on the due execution of an agreement with the crew in accordance with this Act, and also, when the agreement is a running agreement, on compliance by the master, before the second and every subsequent voyage made after the first commencement of the agreement, with the provisions of this Act respecting that agreement, the shipping-master shall grant the master of the ship a certificate to that effect.

(2) The master of every foreign-going ship shall, before proceeding to sea, produce that certificate to the Customs-collector, or, if there is no Customs-collector, to the officer whose duty it is to grant a port-clearance.

(3) No officer of Customs or other officer shall clear any such ship outwards without such production; and, if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced.

(4) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in British India, or upon the discharge of the crew, whichever first happens, deliver such agreement to a shipping-master at the place; and such shipping-master shall thereupon give to the master a certificate of such delivery; and no officer of Customs or other officer shall clear any foreign-going ship inwards without the production of such certificate.

(5) Any master who fails without reasonable cause so to deliver the agreement with the crew, shall be liable for each offence to a fine which may extend to fifty rupees.

35. (1) The master or owner of a home-trade ship of more than three hundred tons burden shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or (if the ship is not at any port in British India within twenty-one days after either the thirtieth day of June or the thirty-first day of December) within forty-eight hours of her next arrival at a port in British India, deliver or transmit to a shipping-master in British India every agreement made within the six months next preceding such days respectively.

(2) The shipping-master on receiving such agreement shall give the master or owner of the ship a certificate to that effect; and no officer of Customs or other officer authorised to grant a port-clearance shall grant a clearance for any such ship without a production of the certificate, and, if any such ship attempts to go to sea without such clearance, any such officer may detain her until the certificate is produced.

(3) Any master or owner who fails, without reasonable cause, to comply with this section shall be liable for each offence to a fine which may extend to fifty rupees.

M. S. A.,
s. 116.

Act I of
1859, s. 27.

Act I of
1859, s. 26.

Act I of
1859, s. 27.

Act I of
1859, s. 32 (1),
Act VI of
1891, s. 3.

Act I of
1859, s. 31,
M. S. A.,
s. 118.

Act I of
1859, s. 32,
M. S. A.,
s. 119.

Act I of
1859, s. 29,
M. S. A.,
s. 117.

Act I of
1859,
s. 84,
M. S. A.,
s. 120.

36. (1) The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement, and, if necessary, a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew.

(2) Any master who fails without reasonable cause to comply with this section shall be liable for each offence to a fine which may extend to fifty rupees.

Act I of
1859, s. 89,
M. S. A.,
s. 122.

37. Every erasure, interlineation or alteration in any agreement with the crew (except additions made for the purpose of shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation or alteration by the written attestation (if made in His Majesty's dominions) of some shipping-master, Justice, officer of Customs, or other public functionary, or (if made out of His Majesty's dominions) of a British consular officer, or, where there is no such officer, of two respectable British merchants.

Engagement of Lascars by Masters of Foreign Ships.

Act I of
1859,
s. 115.

38. (1) When the master of a foreign ship being at any port in British India engages any lascar ships and lascars or or other native seaman to native seamen. proceed to any port out of British India, he shall enter into an agreement with such seaman, and the agreement shall be made before a shipping-master in the manner provided by this Act for the making of agreements in the case of foreign-going ships.

(2) All the provisions of this Act, respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same, shall be applicable to the engagement of such seaman.

(3) The master of the foreign ship shall give to the shipping-master a bond with the security of some approved person resident in British India for an amount calculated at the rate of one hundred rupees for every such seaman and conditioned for the due performance of such agreement and stipulations, and for the repayment to the Secretary of State for India in Council of all expenses which may be incurred by Government in respect of any such lascar or other native seaman who is discharged or left behind at any port out of British India and becomes distressed and is relieved under the provisions of the Merchant Shipping Acts.

Act I of
1859, s. 116.

(4) The prescribed fees shall be payable in respect of every such engagement and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed under this Act.

Act I of
1859,
s. 117.

39. If any lascar or other native seaman is engaged by the master of any foreign ship otherwise than is allowed in section 38, the master shall be liable to a fine which may extend to one hundred rupees for every seaman so engaged.

40. (1) The Local Government or such officer as it may appoint in this behalf may, by order in writing, prohibit any person from engaging in the territories subject to the said Government or in any specified portion of such territories, any native of India to serve as a seaman on any ship specified in such order, but in every case the reasons for the prohibition shall be stated in writing.

(2) Whoever wilfully disobeys any such prohibition shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

41. (1) For the purpose of preventing seamen Power to board from being taken on board British ships and any British ship or lascars or native seamen being taken on board any foreign ship at any port in British India contrary to the provisions of this Act, any shipping-master or deputy shipping-master may enter at any time on board any such ship upon which he has reason to believe that seamen or lascars or native seamen, as the case may be, have been shipped, and may muster and examine the several seamen employed therein.

(2) If any person obstructs a shipping-master or deputy shipping-master in the exercise of his powers under sub-section (1), he shall be liable to a fine which may extend to one hundred rupees.

Discharge of Seamen.

42. (1) When a seaman serving in a British Discharge before foreign-going ship is, on the termination of his engagement, discharged in British India, he shall, whether the agreement with the crew be an agreement for the voyage or a running agreement, be discharged in the manner provided by this Act in the presence of a shipping-master.

(2) If the master or owner of the ship acts in contravention of this section, he shall, for each offence, be liable to a fine which may extend to one hundred rupees.

(3) If the master or owner of a home-trade ship, of more than three hundred tons burden, so desires, the seamen of that ship may be discharged in the same manner as seamen discharged from a foreign-going ship.

43. (1) The master shall sign and give to a seaman discharged from his ship in British India, either on his discharge or on payment of his wages, a certificate of his discharge in a form sanctioned by the Local Government specifying the period of his service and the time and place of his discharge.

(2) If a master acts in contravention of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

(3) The master shall also, upon the discharge of every certificated officer, whose certificate of competency has been delivered to and retained by him, return the certificate to the officer, and if, without reasonable cause, he fails so to do, he shall for each offence be liable to a fine which may extend to two hundred rupees.

Act XIII of
1876,
s. 5 (1).

Act I of
1859,
ss. 80 and
117,
M. S. A.,
s. 723.

Act I of
1859, s. 116,
M. S. A.,
s. 127.

Act I of
1859, s. 117,
M. S. A.,
s. 128.

Payment of Wages.

Act I of
1859, s. 42.
M. S. A., s.
182.

44. (1) The master of every British ship shall, before paying off or discharging a seaman, deliver at the time and in the manner provided by this Act a full and true account in a form sanctioned by the Local Government of the seaman's wages and of all deductions to be made therefrom on any account whatever.

(2) The said account shall be delivered—

(a) where the seaman is not discharged before the shipping-master, to the seaman himself not less than twenty-four hours before his discharge or payment off; and

(b) where the seaman is to be discharged before a shipping-master, either to the seaman himself, at or before the time of his leaving the ship, or to the shipping-master not less than twenty-four hours before the discharge or payment off.

(3) If the master of a ship fails, without reasonable cause, to comply with this section, he shall for each offence be liable to a fine which may extend to fifty rupees.

Act I of
1859, s. 42.
M. S. A., s.
188.

45. (1) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of this Act except in respect of a matter happening after the delivery.

(2) The master shall, during the voyage, enter the various matters in respect of which the deductions are made, with the amount of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce the book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to that payment.

Act I of
1859, s. 41.
M. S. A., s.
181.

46. (1) Where a seaman is discharged before a shipping-master in British India, he shall receive his wages through, or in the presence of, a shipping-master unless a competent Court otherwise directs, and in such a case, if the master or owner of the ship pays his wages in British India in any other manner, he shall for each offence be liable to a fine which may extend to one hundred rupees.

(2) If the master or owner of a home-trade ship so desires, the seamen of that ship may receive their wages in the same manner as seamen discharged from a foreign-going ship.

Act I of
1859, s. 58.
M. S. A., s.s.
184 and 186.

47. (1) The master or owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered or within five days after the seaman's discharge, whichever first happens, and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him.

(2) If a master or owner fails without reasonable cause to make payment at that time, he shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days during which payment is delayed beyond the respective times, but the sum payable shall not exceed ten days' double pay.

(3) Any sum payable under this section may be recovered as wages.

48. (1) Where a seaman is discharged and the settlement of his wages completed before a shipping-master, he shall sign in the presence of the shipping-master a release in a form sanctioned by the Local Government of all claims in respect of the past voyage or engagement, and the release shall also be signed by the master or owner of the ship and attested by the shipping-master.

Act I of
1859 s. 46,
M. S. A., s.
136.

(2) The release so signed and attested shall be retained by the shipping-master and shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

(3) A copy of the release, certified under the hand of the shipping-master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims, and shall have all the effect of the original of which it purports to be a copy.

(4) Where the settlement of a seaman's wages is by this Act required to be completed through, or in the presence of, a shipping-master, no payment, receipt or settlement made otherwise than in accordance with this Act shall operate or be admitted as evidence of the release or satisfaction of any claim.

See s. 186 (4)
of M. S. A.,
where the
law is differ-
ently laid
down.

(5) Upon any payment being made by a master before a shipping-master, the shipping-master shall, if required, sign and give to the master a statement of the whole amount so paid, and this statement shall, as between the master and his employer, be admissible as evidence that the master has made the payments therein mentioned.

49. (1) Where any question of whatever nature and whatever the amount in dispute between a master or owner and any of his crew is raised before a shipping-master, and both parties agree in writing to submit the same to him, the shipping-master shall hear and decide the question so submitted, and an award made by him upon the submission shall be conclusive as to the rights of parties, and any document purporting to be such submission or award shall be *prima facie* evidence thereof.

Act I of
1859, s. 44.
M. S. A., s.
187.

(2) An award made by a shipping-master under this section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by such Magistrate under this Act.

50. (1) In any proceedings under this Act before a shipping-master relating to the wages, claims or discharge of a seaman, the shipping-master may require the owner or his agent or the master or any mate or other member of the crew to produce any log-books, papers, or other documents in his possession or power relating to any matter in question in the proceedings, and may require the attendance of and examine any of those persons being then at or near the place on the matter.

Act I of
1859, s. 45.
M. S. A., s.
188.

(2) If any person so required fails, without reasonable cause, to comply with the requisition, he shall for each offence be liable to a fine which may extend to fifty rupees.

Act I of
1859, s. 54.
amended by
Act XIII of
1878,
s. 10.
M. S. A., s.
139.

51. Where a seaman or apprentice has agreed with the master of a British ship for payment of his wages in British Indian currency, the seaman or apprentice shall be entitled to demand and recover in British Indian currency the amount due to him estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of His Majesty's Treasury for the adjustment of financial transactions between the Imperial and the Indian Governments.

Advance and Allotment of Wages.

Act I of
1859, ss. 36
and 37.
M. S. A., s.
140.

52. (1) Any agreement with the crew may contain a stipulation for advances and allotments, payment to a seaman, conditional on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement.

(2) Stipulations for the allotment of a seaman's wages may be made in accordance with this Act.

(3) Save as aforesaid an agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman, conditional on his going to sea from any port in British India shall be void, and no money paid in satisfaction or in respect of any such agreement shall be deducted from the seaman's wages, and a person shall not have any right of action, suit or set off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

Act I of
1859,
s. 38.
M. S. A., s.
141.

53. (1) Any stipulation made by a seaman at the commencement of a voyage for the allotment of any part of his wages during his absence shall be inserted in the agreement with the crew, and shall state the amounts and times of the payments to be made.

(2) A seaman may require that a stipulation be inserted in the agreement for the allotment, by means of an allotment note, of any part (not exceeding one-third) of his wages in favour either of a relative of the seaman or some member of his family to be named in the note.

(3) Allotment notes shall be in a form sanctioned by the Local Government.

Act I of
1859, ss. 39
and 40.
M. S. A.,
s. 142 and
M. S. A.,
1906, s. 62.

54. (1) The owner or any agent who has authorised the drawing of an allotment note shall pay to the shipping-master on demand the sums due under the note, and, if he fails to do so, the shipping-master may sue for and recover the same with costs;

Provided that no such sum shall be recoverable if it is shown to the satisfaction of the Court or Magistrate trying the case that the seaman has forfeited or ceased to be entitled to the wages out of which the allotment was to have

been paid, but the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the Court or Magistrate either by the official statement of the change in the crew caused by his absence made and signed by the master as by this Act is required, or by a certified copy of some entry in the official log-book to the effect that he has died or left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate may consider sufficient.

(2) The shipping-master on receiving any such sum as aforesaid shall pay it over to the person named in that behalf in the allotment note.

(3) All such receipts and payments shall be entered in a book to be kept for the purpose, and all entries in the said book shall be authenticated by the signature of the shipping-master or the deputy shipping-master.

(4) The said book shall be at all reasonable times open to the inspection of the parties concerned.

Rights of Seamen in respect of Wages.

55. A seaman's right to wages and provisions shall be taken to begin either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board whichever first happens. Act I of
1859, s. 47.
M. S. A., s.
155.

56. (1) A seaman shall not by any agreement forfeit his lien on the ship or be deprived of any remedy for the recovery of his wages to which in the absence of the agreement he would be entitled, and shall not by any agreement abandon his right to wages in case of the loss of the ship or abandon any right that he may have or obtain in the nature of salvage, and every stipulation in any agreement inconsistent with any provisions of this Act shall be void. Act I of
1859, s. 43.
M. S. A., s.
156.

(2) Nothing in this section shall apply to a stipulation made by the seamen belonging to any ship which according to the terms of the agreement is to be employed on salvage service with respect to the remuneration to be paid to them for salvage service to be rendered by that ship to any other ship.

57. (1) The right to wages shall not depend on the earning of freight, and every seaman and apprentice who would be entitled to

demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the same notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that the seaman has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim to wages. Act I of
1859, s. 48.
M. S. A., s.
157.

Act I of
1859, s. 50.

(2) Where a seaman or apprentice who would but for death be entitled by virtue of this section to demand and recover any wages dies before the wages are paid, they shall be paid and applied in manner provided by this Act with respect to the wages of a seaman who dies during a voyage.

Act I of
1859, s. 51.
M. S. A., s.
153.

58. Where the service of a seaman terminates before the date contemplated in the agreement by reason of the wreck or loss of the ship, or of his being left on shore at any place out of British India under a certificate granted as provided by the Merchant Shipping Acts of his unfitness or inability to proceed on the voyage, he shall be entitled to wages up to the time of such termination, but not for any longer period.

Act I of
1859,
s. 52.
M. S. A., s.
159.

59. A seaman or apprentice shall not be entitled to wages for any time during which he unlawfully refuses or neglects to work when required whether before or after the time fixed by the agreement for his commencement of such work nor, unless the Court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Act I of
1859, s. 91.
M. S. A., s.
161.

60. Whenever in any proceeding relating to a seaman's or apprentice's wages it is shown that a seaman or apprentice has in the course of the voyage been convicted of any offence by a competent Court and rightly punished therefor by imprisonment or otherwise, the Court hearing the case may direct any part of the wages due to the seaman or apprentice not exceeding thirty rupees to be applied to re-imbursing any cost properly incurred by the master in procuring the conviction and imprisonment.

Act I of
1859, s. 85.
M. S. A., s.
162.

61. If a seaman having signed an agreement is discharged otherwise than in accordance with the terms thereof before the commencement of the voyage or before one month's wages are earned without fault on his part justifying that discharge and without his consent, he shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage caused to him by the discharge not exceeding one month's wages, and may recover that compensation as if it were wages duly earned.

Act I of
1859, s. 73.
M. S. A., s.
163.

62. (1). As respects wages due or accruing to a seaman or apprentice—
Restriction on sale of and charge upon wages.

- (a) they shall not be subject to attachment by order of any Court ;
- (b) an assignment or sale thereof made prior to the accruing thereof shall not bind the person making the same ;
- (c) a power-of-attorney or authority for the receipt thereof shall not be irrevocable ;
- (d) a payment of wages to a seaman or apprentice shall be valid in law notwithstanding any previous sale or assignment of those wages or any attachment or encumbrance thereof.

(2). Nothing in this section shall affect the provisions of this Act or any other law for the time being in force with respect to allotment notes.

Mode of recovering Wages.

63. A seaman or apprentice or a person duly authorised on his behalf may, as soon as any wages due to him not exceeding five hundred rupees become payable, sue for the same in a summary manner before any Magistrate exercising jurisdiction in or near the place at which his service has terminated or at which he has been discharged, or at which any person upon whom the claim is made is or resides, and the order made by the Magistrate in the matter shall be final.

64. A proceeding for the recovery of wages not exceeding five hundred rupees shall not be instituted by or on behalf of any seaman or apprentice in any Colonial Court of Admiralty or in any Civil Court other than the Court of Small Causes where such a Court exists, except—

- (a) where the owner of the ship is adjudged bankrupt or declared insolvent ;
- (b) where the ship is under arrest or is sold by the authority of any Court ; or
- (c) where a Magistrate under the authority of this Act refers a claim to the Court.

65. (1). The master of a ship shall, so far as the case permits, have the same rights, liens and remedies as a seaman has under this Act or by any law or custom.

(2) If in any proceeding in any Colonial Court of Admiralty touching the claim of a master in respect of wages any right of set off or counter claim is set up, the Court may enter into and adjudicate upon all questions and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and may direct payment of any balance found to be due.

Property of Deceased Seamen.

66. (1) If any seaman or apprentice belonging to a British ship the voyage of which is to terminate in British India dies during that voyage, the master of the ship shall take charge of any money or effects belonging to the seaman or apprentice which are on board the ship.

(2) The master may, if he think fit, cause any effects to be sold by auction at the mast or otherwise by public auction.

(3) The master shall enter in the official log-book the following particulars, namely :—

- (a) a statement of the amount of money and a description of the effects ;
- (b) in the case of a sale, a description of each article sold and the sum received for each ; and

(c) a statement of the sum due to the deceased for wages and of the amount of deduction, if any, to be made from the wages.

(4) The said money, effects, proceeds of sale of effects, and balance of wages, are in this Act referred to as the property of the seaman or apprentice.

67. (1) The master shall, within forty-eight hours after his arrival at his port of destination in British India, deliver and pay the property of any deceased seaman or apprentice to the shipping-master at that port, and shall give to such shipping-master an account of the property so delivered and paid.

(2) A deduction claimed by the master in such account shall not be allowed unless verified, if an official log-book is required to be kept, by an entry in that book, and also by such other vouchers, if any, as may be reasonably required by the shipping-master.

68. (1) If the master fails to comply with the provisions of this Act with respect to taking charge of the property of a deceased seaman or apprentice, or to making in the official log-book the proper entries relating thereto, or to the payment or delivery of the property, he shall be accountable for the property to the shipping-master as aforesaid, and shall pay and deliver the same accordingly and shall in addition, for each offence, be liable to a fine not exceeding treble the value of the property not accounted for or, if such value is not ascertained, not exceeding five hundred rupees.

(2) The property may be recovered in the same Court and manner in which the wages of seamen may be recovered under this Act.

69. Where any property of a deceased seaman or apprentice is paid or delivered to a shipping-master, the shipping-master, after deducting for expenses incurred in respect of that seaman or apprentice or of his property such sums as he thinks proper to allow, may—

(a) pay and deliver the residue to any claimants who can prove themselves to the satisfaction of the said shipping-master to be entitled thereto, and the said shipping-master shall be thereby discharged from all further liability in respect of the residue so paid or delivered; or

(b) if he thinks fit so to do, require probate or letters of administration or a certificate under the Succession Certificate Act, 1889, to be taken out, and thereupon pay and deliver the residue to the legal representative of the deceased.

70. (1) Where no claim to the property of a deceased seaman or apprentice received by a shipping-master is substantiated within one year from the receipt thereof by such shipping-master, the shipping-master shall cause such property to be sold and pay the proceeds of the sale into the public treasury.

(2) If, after any money has been so paid into the public treasury, any claim is made thereto, then if the claim is established to the satisfaction of the shipping-master, the amount, or so much as shall appear to be due to the claimant, shall be paid to him, and if the claim is not so established the claimant may apply by petition to the High Court, and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just:

Provided that after the expiration of six years from the receipt of such property by the shipping-master no claim to such property shall be entertained without the sanction of the Local Government.

Distressed Seamen.

71. (1) A certificate of the Local Government Act XIII of 1876, s. 8. Relief of distressed or of such officer as the of 1876, s. 8. seamen to whom Merchant Shipping Acts may appoint in this behalf to the effect that any seaman named therein is distressed shall in all proceedings under the Merchant Shipping Acts regarding the maintenance and relief of distressed seamen be conclusive evidence that such seaman is distressed within the meaning of those Acts.

(2) Any master of a British ship refusing to accept such seaman as a distressed seaman under the provisions of the said Acts shall for each seaman with respect to whom he so refuses be liable to a fine which may extend to one thousand rupees.

72. (1) Where any wages or expenses recover- Act V of 1888, ss. 32 and 33 able in respect of distressed seamen under the Merchant Shipping Acts, are, under the said Acts, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India, the Governor General in Council may, from time to time by notification in the Gazette of India, authorise, either generally or specially, such persons as he thinks fit to sue for and recover, in manner in the Merchant Shipping Acts provided, those wages or expenses.

(2) Every person so authorised shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of clause (7) of section 67 of the Indian Evidence Act, 1872.

(3) All suits and proceedings under this section shall be instituted and carried on in the name of the Secretary of State for India in Council.

Relief of distressed Seamen to whom the Merchant Shipping Acts do not apply.

73. Nothing in the following provisions. Act VII of 1880, s. 54. of this Part relating to distressed seamen shall apply to seamen or apprentices to whom the provisions of the Merchant Shipping Acts apply.

Act VII of
1880, s. 65.

74. (1) Where any seamen or apprentices—
Relief of distressed
seamen at British
Indian ports.

(a) being Indian subjects of His Majesty are found at any place in British India and have been shipwrecked, discharged or left behind whether from any British ship or from any of His Majesty's ships and are in distress in that place, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign Power, or to the subject of any foreign State, and are in distress in British India; and

(b) not being Indian subjects have been shipwrecked, discharged or left behind at any place in British India from any British ship registered in British India and are in distress in any such place,

the local authority may in accordance with the prescribed conditions provide for the subsistence of those seamen and apprentices (who are hereinafter referred to as distressed seamen) until such time as such authority is able to provide them with a passage as hereinafter provided.

(2) "Local authority", in relation to the provisions of this Act as to distressed seamen, means such person as the Local Government may, subject to the control of the Governor General in Council, appoint to exercise the powers conferred, and to perform the duties imposed, on the local authority under this Act.

75. (1) Subject to the prescribed conditions the local authority may cause distressed seamen to be put on board some ship belonging to any subject of His Majesty which is in want of men to make up its complement and is bound—

(a) in the case of distressed seamen who are Indian subjects of His Majesty, to their home or to a port in British India near their home;

(b) in the case of other British distressed seamen, to any port in the United Kingdom or the British possession to which they belong (as the case requires); and

(c) in the case of distressed seamen not being subjects of His Majesty, to such place as the local authority, subject to the control of the Governor General in Council, may in each case determine.

(2) In default of any such ship, the local authority may, subject as aforesaid, provide such distressed seamen with a passage in any ship (whether British or foreign) bound as aforesaid.

76. The local authority shall indorse on the agreement with the crew of any British ship on board of which any distressed seaman is sent the name of every person so sent on board thereof, with such particulars concerning the case as may be prescribed.

77. (1) The master of every British ship shall receive and afford a passage and subsistence to all distressed seamen whom he is required to take on board his ship under the provisions of section 75, not

exceeding one for every fifty tons burden, and shall, during the passage, provide every such seaman with a proper berth or sleeping-place effectually protected against sea and weather.

(2) If the master of any such ship fails or refuses to receive on board his ship, or to give a passage or subsistence to, or to provide for, any such seaman contrary to the provisions of sub-section (1), he shall, for each such seaman with respect to whom he so fails or refuses, be liable to a fine which may extend to one thousand rupees.

78. (1) When the master of a British ship has conveyed a distressed seaman under conditions under which master may in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of a local authority under this Act, such master shall be entitled to be paid by the Secretary of State for India in Council in respect of the subsistence and passage of such distressed seaman such sum per diem as the Governor General in Council may fix:

Provided that no such payment shall be made except on the production of the following documents (that is to say):—

(a) a certificate signed by the local authority by whose direction such distressed seaman was received on board, specifying the name of such seaman and the time when he was received on board; and

(b) a declaration in writing by such master made and verified in manner hereinafter provided, and stating—

(i) the number of days during which such distressed seaman received subsistence and was provided for as aforesaid on board his ship;

(ii) the number of men and boys forming the complement of his crew;

(iii) the number of seamen and apprentices employed on board his ship during the time such distressed seaman was on board; and

(iv) every variation (if any) of such number.

(2) The declaration required by this section shall, in the case of a ship conveying Indian subjects of His Majesty to a port in British India, be made before a shipping-master or such other officer as the Local Government may appoint. In other cases such declaration shall be made and verified in the same manner as declarations made under section 48 of the Merchant Shipping Act, 1906.

79. Where any expenses are incurred by a local authority under this Part on account of a distressed seaman either for his subsistence, necessary clothing, conveyance, home, and, in case he should die before reaching home, for his burial, those expenses (together with the wages, if any, due to the seaman) shall be a charge upon the ship, whether British or foreign, to which he belonged.

Act VI of
1880, s. 64.

Act VII of
1880, s. 66.

Act VII of
1880, s. 68.

Act VII of
1880, ss. 69
and 60.

6 Edw. 7,

c. 48.

Act VII of

1880, s. 62.

Cf. M. S. A

1906, s. 42.

VII of
s. 68.

80. All such expenses and wages shall be recoverable with costs either from the master of such ship or from the person who is owner thereof for the time being, or, in the case of an engagement for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made, in the same manner as other debts due to the Secretary of State for India in Council, or in the same manner and by the same form and process in which wages due to the distressed seaman would be recoverable by him.

VII of
s. 64.

81. (1) The Local Government may, by notification in the local official Gazette, authorise, either generally or specially, such persons as it thinks fit to sue for any such expenses and wages and recover the same.

1872.

(2) Every person so authorised shall be entitled to sue and recover accordingly, and shall be deemed to be a person filling a public office within the meaning of clause (7) of section 57 of the Indian Evidence Act, 1872.

VII of
s. 64.

82. When any such expenses and wages are due to or in respect of a distressed seaman (not being an Indian subject of His Majesty) belonging to a British ship registered in British India, they may, instead of being recovered by a person authorized under section 81, be recovered by the Board of Trade in manner provided by section 42 of the Merchant Shipping Act, 1906, and when so recovered shall be paid by the said Board to the Secretary of State for India in Council.

3rd 7, c.

VII of
s. 64.

83. In all proceedings under this Part, whether in British India or elsewhere, the production of a certificate signed by the local authority by which any distressed seaman named therein was relieved, or any expenses were incurred, under this Part, to the effect that such seaman was in distress, and that such expenses were incurred in respect of such seaman, shall be sufficient evidence that such seaman was relieved, conveyed home or buried, as the case may be, at the expense of the revenues of India.

VII of
s. 67.

84. The Governor General in Council may make rules to determine under what circumstances and subject to what conditions distressed seamen may be relieved and provided with passages under this Part, and generally to carry out the provisions of this Part regarding distressed seamen.

Provisions, Health and Accommodation.

I of
s. 64.
S. A.
198.

(1) If three or more of the crew of a British ship consider that the provisions or water for the use of the crew are at any time of bad quality, unfit for use or deficient in quantity, they may complain thereof to any

shipping-master or other officer duly appointed in this behalf by the Local Government, and the shipping-master or other officer may either examine the provisions or water complained of or cause them to be examined.

(2) If the officer or person making the examination finds that the provisions or water are of bad quality and unfit for use or deficient in quantity, he shall signify it in writing to the master of the ship.

(3) If the master does not thereupon provide other proper provisions or water in lieu of any so signified to be of bad quality and unfit for use, or does not procure the requisite quantity of any provisions or water so signified to be deficient in quantity, or uses any provisions or water so signified to be of bad quality and unfit for use, he shall be liable for each offence to a fine which may extend to two hundred rupees.

(4) The officer directing or the person making the examination shall enter a statement of the result of the examination in the official log-book, and shall, if he is not the shipping-master, send a report thereof to the shipping-master and that report shall be admissible in evidence in any legal proceeding.

(5) If the said officer certifies in that statement that there was no reasonable ground for the complaint, each of the complainants shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

86. (1) In either of the following cases —

Allowance for short or bad provisions,

Act I of 1859
s. 65.
M. S. A.,
s. 199.

(i) if during the voyage the allowance of any of the provisions for which a seaman has by his agreement stipulated is reduced, (except in accordance with any regulations for reduction by way of punishment contained in the agreement with the crew, and also except for any time during which the seaman wilfully and without sufficient cause refuses or neglects to perform his duty or is lawfully under confinement for misconduct either on board or on shore); or

(ii) if it is shown that any of those provisions are or have during the voyage been bad in quality or unfit for use;

the seaman shall receive by way of compensation for that reduction or bad quality according to the time of its continuance the following sums to be paid to him in addition to and to be recoverable as wages:—

(a) if his allowance is reduced by not more than one-third of the quantity specified in the agreement a sum not exceeding three annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna in the case of a lascar or native seaman;

(b) if his allowance is reduced by more than one-third of such quantity, six annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas in the case of a lascar or native seaman;

(c) in respect of such bad quality as aforesaid, a sum not exceeding eight annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas in the case of a lascar or native seaman.

(2) If it is shown to the satisfaction of the Court before which the case is tried that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the Court shall take those circumstances into consideration and modify or refuse the compensation as the justice of the case requires.

87. (1) All foreign-going British ships and Medicines to be all home-trade ships of provided and kept on more than three hundred board certain ships. tons burden shall have always on board a sufficient supply of medicines and appliances suitable for diseases and accidents likely to happen on sea voyages according to such scale as is from time to time issued by the Local Government with the approval of the Governor General in Council and published in the local official Gazette.

(2) If any requirement in this section with respect to the provision of medicines and appliances is not complied with in the case of any ship, the owner or master of that ship shall for each offence be liable to a fine which may extend to two hundred rupees, unless he can prove that the non-compliance was not caused by his inattention, neglect or wilful default.

(3) This section shall not apply to ships navigating between the United Kingdom and any port in British India and to which section 200 of the Merchant Shipping Act, 1894, applies.

88. The master of a ship shall keep on board Weights and measures proper weights and measures on board. for determining the quantities of the several provisions and articles served out and shall allow the same to be used at the time of serving out the provisions and articles in the presence of witnesses whenever any dispute arises about the quantities. If the master of a ship fails without reasonable cause to comply with this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

89. (1) If the master of, or a seaman or apprentice belonging to, a ship registered in British India receives any hurt or injury in the service of the ship, the expense of providing the necessary surgical and medical advice and attendance and medicine, and also the expenses of the maintenance of the master, seaman or apprentice until he is cured or dies or is brought back to the port from which he was shipped or other port agreed upon, and of his conveyance to that port, and, in case of death, the expense, if any, of his burial, shall be defrayed by the owner of the ship without any deduction on that account from his wages.

(2) Where any expenses referred to in this section have been paid by the master, seaman, or apprentice himself, the same may be recovered as if they were wages duly earned, and, if any such expenses are paid or allowed out of any money forming part of the revenues of India, the amount shall be a charge upon the ship and may be recovered with full costs of suit by the Secretary of State for India in Council.

90. (1) Every place in a British ship which is occupied by seamen or apprentices engaged under this Act and appropriated for their use shall have—

- (a) for each European seaman or apprentice or other person shipped on the same footing as a European seaman, a space of ten superficial feet if the place be not less than six feet in height from deck to deck, or sixty cubic feet if the height from deck to deck be less than six feet;
- (b) for each lascar or native seaman or person shipped on the same footing as a lascar, six superficial and thirty-six cubic feet and, if the place allotted be under the top gallant fore-castle, such fore-castle deck shall be not less than four feet six inches above the one below it.

(2) In every case the place shall be below a well-caulked and substantial deck, securely constructed, properly ventilated and properly protected from weather and sea.

(3) If any of the foregoing requirements of this section is not complied with in the case of any ship, the owner of the ship shall for each offence be liable to a fine which may extend to two hundred rupees.

(4) Every place so occupied and appropriated shall be kept free from goods and stores of any kind not being the personal property of the crew in use during the voyage.

(5) If any such place is not so kept free the master shall for each offence be liable to a fine which may extend to one hundred rupees.

91. (1) The shipping-master or deputy shipping-master at any port in British India may enter at any time on board any ship upon which seamen have been shipped at that port and inspect the medicines and appliances and the accommodation for seamen with which the ship is required to be provided by or under this Act or the Merchant Shipping Acts.

(2) If, on inspection, the provisions or water on board any ship are found to be of bad quality and unfit for use or deficient in quantity, the shipping-master shall proceed as provided in section 85, and the fine prescribed by the said section shall be incurred by any default of the master of the ship in respect of such provisions or water and the ship shall be detained until the defects are remedied to the satisfaction of the shipping-master.

Facilities for making Complaints.

92. (1) If a seaman or apprentice, whilst on board ship, states to the master that he desires to make complaint to a Magistrate against the master or any of the crew, the master shall, so soon as the service of the ship will permit,

- (a) if the ship is then at a place where there is a Magistrate, after such statement, and
- (b) if the ship is not then at such place, after her first arrival at such a place, allow the complainant to go ashore or send him ashore in proper custody so that he may be enabled to make the complaint.

Act I of 1859, s. 70, as amended by Act XIII of 1876, s. 9, M. S. A., s. 210.

Act I of 1859, s. 71.

Act I of 1859, s. 72, M. S. A., s. 211.

Act I of 1859, s. 67, M. S. A., s. 200.

Act I of 1859, s. 68, M. S. A., s. 201.

Act I of 1859, s. 69, M. S. A., s. 207. See also the M. S. A., 1908, s. 34.

(2) If the master of a ship fails without reasonable cause to comply with the provisions of this section, he shall for each such offence be liable to a fine which may extend to one hundred rupees.

Protection of Seamen from Imposition.

Act I of 1859, s. 78. M. S. A., s. 212. **93.** Subject to the provisions of this Act an assignment or sale of salvage payable to a seaman or apprentice made prior to the accruing thereof shall not bind the person making the same, and a power-of-attorney or authority for the receipt of any such salvage shall not be revocable.

Act I of 1859, s. 74. M. S. A., s. 213. **94.** A debt exceeding in amount three rupees incurred by any seaman after he has engaged to serve shall not be recoverable till end of voyage.

Act I of 1859, s. 75. M. S. A., s. 215. **95.** If a person demands or receives from a seaman or apprentice payment in respect of his board or lodging in the house of that person for a longer period than the seaman or apprentice has actually resided or boarded therein, that person shall for each offence be liable to a fine which may extend to one hundred rupees.

Act I of 1859, s. 76. M. S. A., s. 216. **96.** (1) If a person receives or takes into his possession or under his control any money or effects of a seaman or apprentice and does not return the same or pay the value thereof when required by the seaman or apprentice subject to such deduction as may be justly due to him from the seaman or apprentice in respect of board or lodging or otherwise or absconds therewith, he shall for each offence be liable to a fine which may extend to one hundred rupees.

(2) Any magistrate imposing a fine under this section may direct the amount of such money or the value of the effects subject to such deduction as aforesaid, if any, or the effects themselves to be forthwith paid or delivered to the seaman or apprentice.

Act I of 1859, s. 78. M. S. A., s. 217. **97.** If within twenty-four hours after the arrival of a ship at a port in British India a person then being on board the ship solicits a seaman to become a lodger at the house of any person letting lodgings for hire or takes out of the ship any effects of a seaman except under the personal direction of the seaman and with the permission of the master, he shall for each offence be liable to a fine which may extend to fifty rupees.

Act I of 1859, s. 77. M. S. A., s. 218. **98.** Where a ship is about to arrive or is arriving or has arrived at the end of the voyage and any person not being in His Majesty's service or not being duly authorised by law for the purpose goes on board the ship without the permission of the master before the seamen lawfully leave the ship at the end of their engagement or are discharged (whichever happens first), that person shall for each offence be liable to a fine which may extend to two hundred rupees, and the master of the ship may take him into custody

and deliver him up forthwith to a police officer to be taken before a magistrate to be dealt with according to the provisions of this Act.

Provisions as to Discipline.

Act I of 1859, s. 79, as amended by Act V of 1888, s. 36. M. S. A., s. 220. **99.** If a master, seaman or apprentice belonging to a British ship by wilful breach of duty or by neglect of duty or by reason of drunkenness—

(a) does any act tending to the immediate loss, destruction or serious damage of the ship or tending immediately to endanger the life or limb of a person belonging to or on board the ship; or

(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage or for preserving any person belonging to or on board the ship from immediate danger to life or limb;

he shall be liable for every such offence to a fine which may extend to one thousand rupees or to imprisonment for a term which may extend to two years, or to both.

Act I of 1859, s. 80. M. S. A., s. 221. **100.** If a seaman lawfully engaged or an apprentice commits any of the following offences, he shall, notwithstanding anything in the Code of Criminal Procedure, 1898, be liable to be tried in a summary manner and to be punished as follows:—

(i) if he deserts from his ship he shall be guilty of the offence of desertion and be liable to forfeit all or any part of the effects he leaves on board and of the wages which he has then earned and also, if the desertion takes place at any place not in British India, to forfeit all or any part of the wages which he may earn in any other ship in which he may be employed until his next return to British India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him, and also he shall be liable to imprisonment for a term which may extend to twelve weeks;

(ii) if he neglects or refuses without reasonable cause to join his ship or to proceed to sea in his ship or is absent without leave at any time within twenty-four hours of the ship's sailing from a port either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient reason from his ship or from his duty, he shall, if the offence does not amount to desertion or is not treated as such by the master, be

guilty of the offence of absence without leave and be liable to forfeit out of his wages a sum not exceeding two days' pay and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay, or any expenses properly incurred in hiring a substitute, and also he shall be liable to imprisonment for a term which may extend to ten weeks

I of
9, s. 86.
S. A.,
22.

101. (1) If a seaman or apprentice is guilty of the offence of desertion or imprisoned seaman or of absence without leave on board ship, or otherwise absents himself from his ship without leave, the master, any mate, the owner, ship's husband or consignee of the ship may, with or without the assistance of police officers, convey him on board his ship, and those officers are hereby directed to give assistance if required.

(2) If the seaman or apprentice so requires he shall first be taken before some Court capable of taking cognisance of the matter to be dealt with according to law.

(3) If it appears to the Court before whom the case is brought that the seaman or apprentice has been conveyed on board or taken before the Court on improper or insufficient grounds, that Court may inflict on the master, mate, owner, ship's husband or consignee, as the case may be, a fine which may extend to two hundred rupees.

(4) The infliction of such fine shall be a bar to any action for false imprisonment in respect of the arrest.

I of
59, s. 88.

(5) If a seaman or apprentice is imprisoned for having been guilty of the offence of desertion or of absence without leave, or for having committed any other breach of discipline, and during his imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, on the application of the master or of the owner or his agent, notwithstanding that the period of his imprisonment is not at an end, cause the seaman or apprentice to be conveyed on board his ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by them so conveyed.

I of
59, s. 87.
S. A.,
24.

102. Where a seaman or apprentice is brought before a Court on the ground

Power to Court to order offender to be taken on board ship. of the offence of desertion or of absence without leave or of otherwise absents himself without leave, the Court, if the master or the owner, or his agent, so requires, may, in lieu of committing him to prison, cause him to be conveyed on board his ship for the purpose of proceeding on the voyage or deliver him to the master or any mate of the ship or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the conveyance to be paid by the offender and if necessary to be deducted from any wages which he has then earned or by virtue of his then existing engagement may afterwards be earned.

103. If a seaman lawfully engaged or an apprentice commits any of the following offences (in this Act referred to as offences against discipline), he shall, notwithstanding anything in the Code of Criminal Procedure, 1898, be liable to be tried in a summary way and to be punished as follows, namely:—

Act I of
1859, s. 83.
M. S. A.,
s. 225.
V of 1898.

- (i) if he quits the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay;
- (ii) if he is guilty of wilful disobedience to any lawful command, he shall be liable to imprisonment for a period which may extend to four weeks and shall also be liable to forfeit out of his wages a sum not exceeding two days' pay;
- (iii) if he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty, he shall be liable to imprisonment for a term which may extend to twelve weeks, and shall also be liable for every twenty-four hours' continuance of such disobedience or neglect for a sum not exceeding six days' pay or any expenses which may have been properly incurred in hiring a substitute;
- (iv) if he assaults the master or any mate or a certificated engineer of the ship, he shall be liable to imprisonment for a term which may extend to twelve weeks;
- (v) if he combines with any of the crew to disobey lawful commands or to neglect duty or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for a term which may extend to twelve weeks;
- (vi) if he wilfully damages his ship or commits criminal misappropriation or breach of trust in respect of or wilfully damages any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal to the loss thereby sustained, and also to imprisonment for a term which may extend to twelve weeks;
- (vii) if he is convicted of any offence involving whereby loss or damage is occasioned to the master or owner of the ship, he shall be liable to pay that master or owner a sum sufficient to reimburse the loss or damage, and the whole or a proportionate part of his wages may be retained in satisfaction on account of that liability without prejudice to any further remedy.

104. (1) If a seaman or apprentice, before being engaged wilfully and fraudulently makes a false statement as to last name, his ship or alleged last ship or wilfully and fraudulently makes a false statement of his own name, he shall for each offence be liable to a fine which may extend to fifty rupees.

(2) The fine may be deducted from any wages the seaman may earn by virtue of his engagement

Act I of
1898, s. 95.
M. S. A.,
s. 227.

as aforesaid and shall, subject to re-imbursement of the loss or expenses, if any, occasioned by any desertion previous to the engagement, be paid and applied in the same manner as other fines under this Act.

Act I of
1859, ss. 81
and 96.
M. S. A.,
s. 228.

105. If any offence within the meaning of this Act of desertion or absence without leave or against discipline is committed or if any act of misconduct is committed for which the offender's agreement imposes a fine and it is intended to enforce the fine,—

- (i) an entry of the offence or act shall be made in the official log-book and signed by the master and also by the mate or one of the crew; and
- (ii) the offender, if still in the ship, shall before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him and may thereupon make such reply thereto as he thinks fit; and
- (iii) a statement of a copy of the entry having been so furnished or the entry having been so read over and in either case the reply, if any, made by the offender shall likewise be entered and signed in manner aforesaid; and
- (iv) in any subsequent legal proceedings the entries by this section required shall, if practicable, be produced or proved, and, in default of that production or proof, the Court hearing the case may, in its discretion, refuse to receive evidence of the offence or act of misconduct

Act XIII of
1876, s. 6.

106. (1) Whenever any seaman or apprentice not shipped in British India deserts or otherwise absents himself in British India without leave from a British ship in which he is engaged to serve, the master of the ship shall within forty-eight hours of discovering such desertion or absence report the same to the shipping-master or to such other officer as the Local Government appoints in this behalf, unless, in the meantime, the deserter or absentee returns.

(2) Any master wilfully neglecting to comply with the provisions of this section shall be liable to a fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Act I of
1859, s. 89.
M. S. A.,
s. 229.

107. (1) In every case of desertion from a ship registered in British India whilst such ship is at any place out of British India, the master shall produce the entry of the desertion in the official log-book to the person authorised by the Merchant Shipping Act, 1906, to grant certificates for leaving seamen behind abroad; and that person shall thereupon make and certify a copy of the entry.

(2) The master shall forthwith transfer such copy to the shipping-master at the port at which the seaman or apprentice was shipped, and the shipping-master shall, if required, cause the same so be produced in any legal proceeding.

6 Edw. 7,
c. 48.

(3) Such copy, if purporting to be so made and certified as aforesaid, shall, in any legal proceeding relating to such desertion, be admissible in evidence.

108. (1) Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion from a ship, it shall be sufficient for the person insisting on the forfeiture to show that the seaman or apprentice was duly engaged in or belonged to the ship, and either that he left the ship before the completion of the voyage or engagement or, if the voyage was to terminate in British India and the ship has not returned, that he is absent from her and that an entry of his desertion has been duly made in the official log-book.

(2) The desertion shall thereupon, so far as relates to any forfeiture of wages under this Part, be deemed to be proved unless the seaman or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship.

109. (1) Where any wages or effects are under this Act forfeited for desertion from a ship, they shall be applied towards re-

imbursing the expenses caused by the desertion to the master or the owner of the ship and, subject to that re-imbursement, shall be paid into the public treasury and carried to the account of Government.

(2) For the purposes of such re-imbursement the master or the owner or his agent may, if the wages are earned subsequent to the desertion, recover them in the same manner as the deserter could have recovered them if not forfeited; and the Court in any legal proceeding relating to such wages may order them to be paid accordingly.

(3) Where wages are forfeited under the foregoing provisions of this Act in any case other than for desertion, the forfeiture shall, in the absence of any specific provision to the contrary, be for the benefit of the master or owner by whom the wages are payable.

110. Any question concerning the forfeiture of or deductions from the wages of a seaman or apprentice may be determined in any proceeding lawfully

instituted with respect to those wages notwithstanding that the offence in respect of which the question arises, though by this Act made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

111. (1) If a seaman contracts for wages by the voyage or by the run or by the share and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be an amount bearing the same proportion to the whole wages or share as a month or any other period hereinbefore mentioned in fixing the amount of

Act I of
1859, s. 90.
M. S. A.,
s. 231.

Act I of
1859, s. 93.
M. S. A.,
s. 232.

Act I of
1859, s. 94.
M. S. A.,
s. 231.

Act I of
1859, s. 92.
M. S. A.,
s. 234.

forfeiture (as the case may be) bears to the whole time spent in the voyage or run.

(2) If the whole time spent in the voyage or run does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

112. (1) Every fine imposed on a seaman for any act of misconduct for which his agreement imposes a fine shall be deducted and paid over as follows, namely :—

(i) if the offender is discharged at any port or place in British India, and the offence and such entries in respect thereof as aforesaid are proved, in the case of a foreign-going ship to the satisfaction of the shipping-master before whom the offender is discharged, and in the case of a home-trade ship to the satisfaction of the shipping-master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such shipping-master; and

(ii) if before the final discharge of the crew in British India, any such offender as aforesaid enters into any of His Majesty's ships or is discharged at any place not in British India, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters or of the consular officer, officer of Customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book (if any) and signed by such officer or other person; and on the return of the ship to British India, the master or owner shall pay over such fine, in the case of foreign-going ships to the shipping-master before whom the crew is discharged, and in the case of home-trade ships to the shipping-master at or nearest to the place at which the crew is discharged.

(2) If any master or owner neglects or refuses so to pay over the fine he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him.

(3) An act of misconduct for which any such fine has been inflicted and paid shall not be otherwise punished under the provisions of this Act.

113. If a person by any means whatever persuades or attempts to persuade a seaman or apprentice to neglect or refuse to join or proceed to sea in or desert from his ship, or otherwise to absent himself from his duty, he shall for each offence in respect of each seaman or apprentice be liable to a fine which may extend to one hundred rupees.

114. If a person wilfully harbours or secretes a seaman or apprentice who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe the seaman or apprentice to have so done, he shall for every seaman or apprentice so harboured or secreted be liable to a fine which may extend to one hundred rupees.

115. (1) If a person secretes himself and goes to sea in a ship without the consent of either the owner, consignee or master, or of a mate, or of the person in charge of the ship or of any other person entitled to give that consent, he shall be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to four weeks.

(2) Every sea-faring person whom the master of a ship is under the authority of this Act or any other law compelled to take on board and convey, and every person who goes to sea in a ship without such consent as aforesaid, shall, so long as he remains in the ship, be subject to the same laws and regulations for preserving discipline and to the same fines and punishments for offences constituting or tending to a breach of discipline as if he were a member of and had signed the agreement with the crew.

116. (1) If any seaman or apprentice who is not shipped in British India is imprisoned on complaint made by or on behalf of the master or owner of the ship or for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, then—

(a) while such imprisonment lasts, no person shall, without the previous sanction in writing of the Local Government or of such officer as it may appoint in this behalf, engage any native of India to serve as a seaman on board such ship; and

(b) the Local Government or such officer as it may appoint in this behalf may tender such seaman or apprentice to the master or owner of the ship in which he is engaged to serve, and if such master or owner, without assigning reasons satisfactory to the Local Government or to such officer as aforesaid, refuses to receive him on board, may require such master or owner to deposit in the local shipping office—

(i) the wages due to such seaman or apprentice and his money and effects; and

(ii) such sum as may, in the opinion of the Local Government or such officer as aforesaid, be sufficient to defray the cost of the passage of such seaman or apprentice to the port at which he was shipped according to the scale of costs usual in the case of distressed seamen.

(2) If any person wilfully disobeys the prohibition contained in clause (a) of sub-section (1), he shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

(3) Any master or owner refusing or neglecting to deposit any wages, money, effects or sum when so required by this section, shall be liable to a fine which may extend to five hundred rupees.

Act I of
1859, s. 88.
Act XIII of
1876, s. 7.

117. If any seaman or apprentice who is not shipped in British India is imprisoned for any offence for which he has been sentenced to imprisonment for a term not exceeding one month, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, at the request of the master or owner or his agent, cause the seaman or apprentice to be conveyed on board the ship for the purpose of proceeding on the voyage or to be delivered to the master or any mate of the ship or to the owner or his agent to be by them so conveyed, notwithstanding that the period for which he was sentenced to imprisonment has not terminated.

See M. S. A.,
s. 223.

118. (1) If during the progress of a voyage on change of master, documents to be handed over to the master of any ship registered in British India is removed or superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and the crew thereof which are in his custody and shall in default be liable to a fine which may extend to one thousand rupees.

Act I of
1859, s. 99,
M. S. A.,
s. 268.

(2) Such successor shall immediately on assuming the command of the ship enter in the official log-book a list of the documents so delivered to him.

Leaving Seamen or Apprentices in British India.

Act XIII of
1876, s. 4.
M. S. A.,
s. 188.
See now
M. S. A.,
1894, ss. 90
and 93.

119. (1) No seaman or apprentice who was not shipped in British India shall be discharged at any port in British India without the previous sanction in writing of such officer as the Local Government appoints in this behalf. Such sanction shall be given or withheld at the discretion of the officer so appointed, but, whenever it is withheld, the reasons for so withholding it shall be recorded by him in writing.

(2) If any person discharges a seaman or apprentice in wilful disobedience to the prohibition contained in sub-section (1), he shall be liable to imprisonment for a term which may extend to three months, or to a fine which may extend to one thousand rupees, or to both.

Official Logs.

Act I of
1859, s. 103.
M. S. A.,
s. 239.

120. (1) An official log shall be kept in every ship registered in British India except home-trade ships not exceeding three hundred tons burden in the form sanctioned by the Local Government.

(2) The official log may, at the discretion of the master or owner, be kept distinct from or united with the ordinary ship's log so that in all cases the spaces in the official log-book be duly filled up.

(3) An entry required by this Act in the official log-book shall be made as soon as possible after the occurrence to which it relates, and, if not made on the same day as that occurrence, shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge, shall not be made more than twenty-four hours after that arrival.

(4) Every entry in the official log-book shall be signed by the master and by the mate or some other of the crew and also—

- (a) if it is an entry of injury or death, shall be signed by the Surgeon or medical practitioner on board, if any; and
- (b) if it is an entry of wages due to or of the sale of the effects of a seaman or apprentice who dies, shall be signed by the mate and by some member of the crew besides the master; and
- (c) if it is an entry of wages due to a seaman who enters His Majesty's naval service, shall be signed by the seaman or by the officer authorised to receive the seaman into that service.

(5) Every entry made in an official log-book in the manner provided by this Act shall be admissible in evidence.

121. The master of a ship for which an official log is required shall enter or cause to be entered in the official log-book the following matters, namely:—

- (i) every conviction by a legal tribunal of a member of his crew, and the punishment inflicted;
- (ii) every offence committed by a member of his crew for which it is intended to prosecute or to enforce a forfeiture or exact a fine together with such statement concerning the reading over of that entry, and concerning the reply (if any) made to the charge as is by this Act required;
- (iii) every offence for which punishment is inflicted on board and the punishment inflicted;
- (iv) a statement of the conduct, character and qualifications of each of his crew, or a statement that he declines to give an opinion on those particulars;
- (v) every case of illness or injury happening to a member of the crew with the nature thereof, and the medical treatment adopted (if any);
- (vi) every case of death happening on board and the cause thereof;
- (vii) every birth happening on board with the sex of the infant and the names of the parents;
- (viii) every marriage taking place on board with the names and ages of the parties;

- (ix) the name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner and cause thereof;
- (x) the wages due to any seaman who enters His Majesty's naval service during the voyage;
- (xi) the wages due to any seaman or apprentice who dies during the voyage and the gross amount of all deductions to be made therefrom;
- (xii) the sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it;
- (xiii) every collision with any other ship and the circumstances under which the same occurred.

Act I of
1859, s. 107.
S. A.
241.

122. (1) If an official log-book is not kept in the manner required by this Act, or if an entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act, the master shall, if no other penalty is provided by this Act, be liable for each offence to a fine which may extend to fifty rupees.

(2) If any person makes or procures to be made or assists in making any entry in any official log-book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival, he shall for each offence be liable to a fine which may extend to three hundred rupees.

(3) If any person wilfully destroys or mutilates or renders illegible any entry in any official log-book or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log-book, he shall be liable to imprisonment for a term which may extend to one year.

Act I of
1859, s. 109.
S. A.
242.

123. (1) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in British India or upon the discharge of the crew, whichever first happens, deliver the official log-book of the voyage to the shipping-master before whom the crew is discharged.

(2) The master or owner of every home-trade ship, for which an official log is required to be kept, shall, within twenty-one days of the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some shipping-master in British India the official log-book for the preceding half-year.

(3) If the master or owner of a ship fails without reasonable cause to comply with this section, he shall be liable to a fine which may extend to two hundred rupees.

Act I of
1859, s. 110.
S. A.
243.

124. (1) Where, by reason of transfer of ownership or change of employment of a ship, the official log ceases to be required in respect of the ship or to be required on the same date, the master or owner of the ship shall, if the ship is then in British India, within one

month, and, if she is elsewhere, within six months, after the cessation, deliver or transmit to the shipping-master at the port to which the ship belonged the official log-book, if any, duly made out at the time of the cessation.

(2) If a ship is lost or abandoned the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping-master at the port to which the ship belonged the official log-book, if any, duly made out to the time of the loss or abandonment.

(3) If the master or owner of the ship fails without reasonable cause to comply with the provisions of this section, he shall for each offence be liable to a fine which may extend to one hundred rupees.

PART III.

PASSENGER SHIPS.

Survey of Passenger Ship.

125. (1) No steam-ship shall carry more than twelve passengers between places in British India or to or from any place in British India from or to any place out of British India, unless she has a certificate of survey under this Part in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

(2) Nothing in sub-section (1) shall apply to—

(a) any steam-ship having a certificate of survey granted by the Board of Trade, or by the Government of any part of His Majesty's dominions where such certificate has been declared under section 284 of the Merchant Shipping Act, 1894, to be of the same force as if granted under that Act, unless it appears from the certificate that it is inapplicable to the voyage on which the steam-ship is about to proceed or the service, on which she is about to be employed, or unless there is reason to believe that the steam-ship has, since the grant of the certificate, sustained injury or damage or been found unseaworthy or otherwise inefficient; or

(b) any steam-ship having a certificate of survey granted under the Inland Steam-vessels Act, 1917, in force and applicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed; or

(c) any steam-ship carrying passengers during the interval between the time at which her certificate of survey under this Part expires and the time at which it is first practicable to have the certificate renewed.

126. The Local Government may, with the power for Local Government to exempt certain steam-ships, Governor-General in Council, by notification in the local official Gazette, declare that all or any of the provisions of this Part relating to the survey of steam-ships shall not apply in the case of any specified steam-ship or class of steam-ships, or shall apply thereto with such modifications as the Local Government may direct.

Act VII of
1884, s. 7.
M. S. A.,
s. 271 (2) (b).

127. No officer of Customs shall grant a port-clearance, nor shall any pilot be assigned, to any steam-ship for which a certificate of survey is required by this Part until after the production by the owner or master thereof of a certificate under this Part in force and applicable to the voyage on which she is about to proceed and the service on which she is about to be employed.

Act VII of
1884, s. 8.
M. S. A.,
s. 271 (2).

128. If any steam-ship for which a certificate of survey is required by this Part leaves or attempts to leave any port of survey without a certificate, any officer of Customs or any pilot on board the steam-ship may detain her until she obtains a certificate.

Act VII of
1884, s. 9.
M. S. A.,
s. 724 (1).

129. The Local Government may appoint so many persons as it thinks fit to be surveyors for the purposes of this Part at such ports within the territories under its administration as it may appoint to be ports of survey.

Act VII of
1884, s. 10.
M. S. A.,
s. 725.

130. (1) For the purposes of a survey under this Part, any surveyor appointed under this Part may, at any reasonable time, go on board a steam-ship, and may inspect the steam-ship and any part thereof, and the machinery, equipments or articles on board thereof:

Provided that he does not unnecessarily hinder the loading or unloading of the steam-ship, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam-ship shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-ship and her machinery and equipments, or any part thereof, respectively, as he reasonably requires.

Act VII of
1884, s. 10-A.
(inserted by
Act III of
1890, s. 15).
M. S. A.,
s. 277.

131. Before a survey under this Part is commenced, the owner or master of the steam-ship to be surveyed shall pay to such officer as the Local Government may appoint in this behalf—

(a) a fee calculated on the tonnage of the steam-ship according to the rates in Schedule II or according to any other prescribed rates; and

(b) when the survey is to be made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the port, as the Local Government may, by notification in the local official Gazette, direct.

Act VII of
1884, s. 20.

132. A survey under this Part shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by order in writing, so directs, either generally in the case of all steam-ships at any port of survey, or specially in the case of any particular steam-ship or class of steam-ships at any such port.

Act VI of
1884, s. 22

133. When a survey is made under this Part by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Part or the

rules made thereunder to a surveyor making a survey.

134. When a survey under this Part is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-ship surveyed a declaration of survey in the prescribed form containing the following particulars, namely:—

(a) that the hull and machinery of the steam-ship are sufficient, for the service intended and in good condition;

(b) that the equipments of the steam-ship and the certificates of the master, mate or mates, and engineer or engineers or engine-driver, are such and in such condition as are required by any law for the time being in force and applicable to the steam-ship;

(c) the time (if less than one year) for which the hull, machinery and equipments of the steam-ship will be sufficient;

(d) the limit (if any) beyond which, as regards the hull, machinery or equipments, the steam-ship is in the surveyor's judgment not fit to ply;

(e) the number of passengers which the steam-ship is, in the judgment of the surveyor, fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins; the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo, carried or other circumstances, as the case requires; and

(f) any other prescribed particulars.

135. (1) The owner or master to whom a declaration of survey is given shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government may appoint in this behalf.

(2) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(3) The owner or master shall pay any sum so forfeited on the delivery of the certificate of survey.

136. (1) Upon receipt of a declaration of survey, the Local Government shall, if satisfied that the provisions of this Part have been complied with, cause a certificate, in duplicate, to be prepared and delivered, through such officer at the port at which the steam-ship was surveyed as the Local Government may appoint in this behalf, to the owner or master of the steam-ship surveyed, on his applying and paying the sum (if any) mentioned in this Part as payable on delivery of a certificate.

(2) A certificate granted under this section shall be in the prescribed form; shall contain a statement to the effect that the provisions of this Part with respect to the survey of the steam-ship and the transmission of the declaration of survey in respect thereof have been complied with; and shall set forth—

(a) the particulars concerning the steam-ship which clauses (c), (d) and (e) of section

Act VII of
1884, s. 1
M. S. A.,
s. 272 (2),
and (4).

Act VII of
1884, s. 12
M. S. A.,
s. 278.

Act VII of
1884, s. 13
M. S. A.,
ss. 274 and
276.

Act VII of
1884, s. 13
M. S. A.,
ss. 274 and
276.

134 require the declaration by the surveyor to contain ; and

(b) any other prescribed particulars.

(3) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-ship to which the certificate relates.

(4) The Local Government may delegate to any person—

(a) the function, assigned to the Local Government by sub-section (1), of granting a certificate of survey under that sub-section ;

(b) the function, assigned to the Local Government by sub-section (5), of causing notice to be given of a certificate of survey being ready for delivery :

Provided, with respect to clause (a) of this sub-section, that no delegation of the function mentioned in that clause shall be construed to authorise the grant of a certificate of survey by the surveyor who gave the declaration of survey.

137. (1) If the surveyor or surveyors making a Power for Local survey under this Act refuses Government to order a or refuse to give a declaration of survey under section 134 with regard to any steam-ship, or gives or give a declaration with which the owner or master of the steam-ship surveyed is dissatisfied, the Local Government may, on the application of the owner or master, and the payment by him of such fee, not exceeding twice the amount of the fee for the previous survey, as the Local Government may require, direct two other surveyors appointed under this Part to survey the steam-ship.

(2) The surveyors so directed shall forthwith survey the steam-ship, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to them proper, and their decision shall be final.

138. A certificate of survey granted under this Duration of certifi- Part shall not be in force—
of survey.

(a) after the expiration of one year from the date thereof ; or

(b) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient ; or

(c) after notice has been given, by the Local Government, to the owner or master of the steam-ship to which the certificate relates that the Local Government has cancelled or suspended it.

139. Any certificate of survey granted under this Part may be cancelled or suspended by a Local Government if it has reason to believe—

(a) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-ship has been fraudulently or erroneously made ; or

(b) that the certificate has otherwise been issued upon false or erroneous information ; or

(c) that, since the making of the declaration, the hull, boilers, engines or any of the equipments of the steam-ship have sustained any injury, or have otherwise become insufficient.

140. (1) The Local Government may require Act VII of 1884, s. 18.
Power to require any certificate of survey 1884, s. 18.
delivery of expired or granted under this Part M. S. A.,
cancelled certificate of which has expired, or has s. 280.
survey. been cancelled or suspended,
to be delivered up to such person as it directs.

(2) If the owner or master of a steam-ship, without reasonable cause, neglects or refuses to deliver up a certificate when required to do so under this section, he shall be liable to a fine which may extend to one hundred rupees.

141. If the Local Government which cancels Act VII of 1884, s. 19,
Report of cancella- or suspends a certificate of 1884, s. 19,
tion or suspension of survey granted under this as amended
certain certificates. Part is not the Local by Act III of 1890, s. 19.
Government which or whose delegate granted the certificate, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons thereof, to the Local Government which or whose delegate granted the certificate.

142. (1) The owner or master of every steam-ship for which a certificate of survey has been granted under this Part shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as the certificate remains in force and the steam-ship is in use, on some conspicuous part of the steam-ship where it may be easily read by all persons on board thereof.

(2) If the certificate is not so kept affixed, the owner and master of the steam-ship shall each be liable to a fine which may extend to one hundred rupees.

143. If a steam-ship on any voyage carries or Penalty for attempts to carry passengers 1884, s. 14, inserted
carrying passengers in contravention of section 125 in contravention of or has on board or in any part by Act I of 1920.
the Act. thereof a number of passengers M. S. A.,
which is greater than the number set forth in the certificate of survey as the number of passengers s. 283.

which the steam-ship or the part thereof is fit to carry on that voyage, the owner and the master shall each be punishable with a fine which may extend to one thousand rupees, and also with an additional fine not exceeding twenty rupees for every passenger above the number so set forth, or, if the fare of any passenger on board exceeds twenty rupees, not exceeding double the amount of the fares of all the passengers above the number so set forth, reckoned at the highest rate of fare payable by any passenger on board ; and if the master or any other officer of any steam-ship which carries or attempts to carry passengers in contravention of section 125 is a licensed pilot, he shall be liable to have his licence as a pilot suspended or cancelled for any period by the Local Government.

144. (1) When a steam-ship requires to be furnished with a certificate of survey under this Part and the Local Government is satisfied, by the production of a certificate of survey attested by a
Steam-ships with foreign certificates of survey or certificates of partial survey. Act VII of 1884, s. 23, inserted by Act I of 1909, s. 4. M. S. A., s. 286.

Act III of 1898, s. 17 (2).
Act XXXVIII of 1920, s. 2.

Act VII of 1884, s. 21, amended by Act of 1890, s. 20. M. S. A., s. 275.

Act VII of 1884, s. 18. M. S. A., s. 278 (1).

Act VII of 1884, s. 17. M. S. A., s. 279.

British Consular Officer at the port where the survey was made, that the ship has been officially surveyed at a foreign port, and that the requirements of this Act are proved by that survey to have been substantially complied with, the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Part :

Provided that this sub-section shall not apply in the case of a foreign steam-ship to an official survey at any foreign port with respect to which His Majesty has by Order in Council directed that section 363 of the Merchant Shipping Act, 1894, shall not apply.

57 and 58
Vict., C. 60.

(2) When the Local Government has, by notification in the local official Gazette, declared that it is satisfied that an official survey at any foreign port specified in the declaration is such as to prove that the requirements of this Act have been substantially complied with, any person appointed by the Local Government in this behalf may exercise the power to dispense with a survey and to give a certificate conferred on the Local Government by sub-section (1) in the case of any steam-ship furnished with a valid certificate of survey granted at such foreign port and duly attested by the British Consular Officer at that port.

(3) The procedure prescribed in sub-section (1) shall be applicable in the case of steam-ships furnished with valid certificates of partial survey, including docking certificates, granted by the Board of Trade or any British Colonial Government, as if they were steam-ships furnished with like certificates of survey granted at foreign ports, subject to the modification that the powers of the Local Government under the said sub-section may be exercised by any person appointed by the Local Government in this behalf.

Act VII of
1834, ss. 24,
and 42 (5).

145. (1) The Local Government may, subject to the condition of previous publication and the sanction of the Governor General in Council, make rules to regulate the making of surveys under this Part.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) declare the times and places at which, and the manner in which, surveys are to be made ;
- (b) regulate the duties of the surveyor making a survey and, where two surveyors are employed, assign the respective duties of each of the surveyors employed ;
- (c) declare the form in which the declarations of surveyors and certificates of survey under this Part are to be framed, and the nature of the particulars which are to be stated therein, respectively ; and
- (d) fix the rates according to which the fees payable in respect of surveys are to be calculated in the case of all or any of the ports of survey within the territories under its administration.

Act III of
1890, s. 21.

Provisions in case of Wreck of Ship carrying Steerage Passengers.

Act XII of
1885, ss. 3, 4,
5, 6 and 7.
57 & 58
Vict., C. 60.

146. (1) The provisions contained in Part I of Schedule III (being sections 332, 333, 334 and 335 of the Merchant Shipping Act, 1894) are declared applicable to ships carrying steerage passengers upon the following voyages, namely :—

- (a) voyages from the ports of Calcutta, Madras and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji ;
- (b) voyages from the ports of Calcutta, Madras and Bombay to the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana ;
- (c) voyages from the ports of Calcutta, Madras and Bombay to the Netherlands Colony of Dutch Guiana ;
- (d) voyages from the ports of Calcutta, Madras and Bombay to the Danish colony of St. Croix ;
- (e) voyages under Part IV of this Act (which relates to native passenger ships) from Calcutta, Madras, Bombay, Karachi, Rangoon and other ports in British India to the Straits Settlements, to the Protected Native States adjoining the Straits Settlements, to Australia, and to ports in the Red Sea, Gulf of Aden or Persian Gulf and on the East Coast of Africa.

(2) This section shall not come into operation until His Majesty's pleasure thereon has been publicly signified by notification in the Gazette of India.

(3) On such signification of such pleasure, the Indian Sea Passengers Act, 1885, shall be repealed.

PART IV.

NATIVE PASSENGER SHIPS AND PILGRIM SHIPS.

147. (1) This Part applies—

Act X of
1887, s. 2.
Act XIV of
1895, s. 2.

Application of Part.

- (a) to all subjects of His Majesty within the dominions of Princes and States in India ;
 - (b) to all Indian subjects of His Majesty without and beyond British India.
- (2) But the provisions of this Part relating to native passenger ships do not apply—
- (a) to any steam-ship not carrying as passengers more than sixty natives of Asia or Africa,

(b) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India, or

(c) to any ships to which the provisions of the Inland Steam Vessels Act, 1917, are applicable.

(3) Notwithstanding anything in sub-sections (1) and (2), the Local Government may, with the previous sanction of the Governor General in Council, declare all or any of the provisions of this Part relating to native passenger ships to apply to sailing-ships, or any class of sailing-ships, carrying as passengers more than fifteen natives of Asia or Africa, and to steam-ships, or any class of steam-ships, carrying as passengers more than thirty such persons.

Act X of 1887, s. 57.

148. (1) The Local Government, with the previous sanction of the Governor General in Council, may, subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Part relating to native passenger ships.

(2) In imposing a condition under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

Act X of 1887, s. 6.

149. In this Part, unless there is anything repugnant in the subject or context,—

Definitions.

(1) "native passenger" means a passenger by a ship who is a native of Asia or Africa of the age of twelve years or upwards and is not on the articles of the ship as one of the crew; but it does not include either a passenger in attendance on a person who is not a native of Asia or Africa or a child under one year of age; and, in the computation of passengers for any of the purposes of this Part, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger;

(2) "native passenger ship" means, save as otherwise provided in this Part, a ship carrying more than thirty native passengers;

Act XIV of 1895, s. 5(1).

(3) "pilgrim" means a Muhammadan passenger going to, or returning from, the Hedjaz; but it does not include a child under one year of age, and, in the computation of pilgrims for all or any of the purposes of this Act, the Governor General in Council may, by notification in the Gazette of India, direct that two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one pilgrim;

Explanation I.—A Muhammadan passenger who has embarked with the intention of going to the Hedjaz, but is returning without having actually landed there, shall be deemed to be a pilgrim for the purposes of this Act:

Act XIV of 1895, s. 6.

Explanation II.—Every passenger, whether a pilgrim or not, on board a pilgrim ship shall be

deemed to be a pilgrim for the purposes of this Part;

(4) "pilgrim ship" means a ship conveying or about to convey pilgrims from or to any port in British India to or from any port in the Red Sea other than Suez: Act XIV of 1895, s. 5(2).

Provided that no ship carrying passengers other than pilgrims of the lowest class and having on board pilgrims of the lowest class in a less proportion than one pilgrim for every one hundred tons of the gross tonnage of the ship shall be deemed to be a pilgrim ship within the meaning of this Act.

Explanation.—"A pilgrim of the lowest class" is a pilgrim for whom no separate accommodation in any cabin, state-room or saloon is reserved:

(5) "voyage" means the whole distance between the ship's port or place of departure and her final port or place of arrival: Act XIV of 1895, s. 5(3).

(6) "Chief Customs-officer" means the chief executive officer of sea-customs in any port or place to which this Part applies. Act XIV of 1895, s. 5(3).

General Provisions as to Native Passenger and Pilgrim Ships.

150. (1) A native passenger ship shall not, nor shall a pilgrim ship, depart from, or proceed from, or discharge native passengers or pilgrims, as the case may be, at any port or place within British India other than a port or place appointed in this behalf by the Local Government for native passenger ships or pilgrim ships, as the case may be. Act X of 1887, s. 6, Act XIV of 1897, s. 7.

(2) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as a native passenger or pilgrim, as the case may be, except at some other port or place so appointed.

151. (1) The master, owner or agent of a native passenger or pilgrim ship so departing or proceeding shall give notice to an officer, appointed in this behalf by the Local Government, that the ship is to carry native passengers or pilgrims and of her destination and of the proposed time of sailing. Act X of 1887, s. 7, Act XIV of 1895, s. 8.

(2) The notice shall be given—

(a) in the case of a native passenger ship not less than twenty-four hours before that time;

(b) in the case of a pilgrim ship at the original port of departure if in British India, and in other cases at the first port at which she touches in British India, not less than three days, and at all other ports not less than twenty-four hours before that time.

152. After receiving the notice, the officer or a person authorised by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores on board. Act X of 1887, s. 8, Act XIV of 1895, s. 9.

153. (1) A ship intended to carry native passengers or pilgrims shall not commence a voyage from a port or place appointed under this Part, unless the Act X of 1887, s. 9, Act XIV of 1895, s. 10.

master holds two certificates to the effect mentioned in the two next following sections.

(2) The officer whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

Act X of
1887, s. 10.
Act XIV of
1895, s. 11.

154. The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and —

(a) in the case of a native passenger ship, the number of passengers which she is capable of carrying;

(b) in the case of a pilgrim ship, the number of pilgrims of each class which she is capable of carrying.

Act X of
1887, s. 11.
Act XIV of
1895, s. 12.

155. The second of the certificates (hereinafter called "certificate B") shall state —

(a) the voyage which the ship is to make, and the intermediate ports (if any) at which she is to touch;

(b) that she has the proper complement of officers and seamen;

(c) that food, fuel and pure water over and above what is necessary for the crew, and the other things (if any) prescribed for native passengers or pilgrim ships, as the case may be, have been placed on board, of the quality prescribed properly packed, and sufficient to supply the native passengers or pilgrims on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the prescribed scale;

(d) that the master holds certificate A;

(e) in the case of a native passenger ship if the ship is to make a short voyage, as hereinafter defined, in a season of foul weather, and to carry upperdeck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather;

(f) in the case of a native passenger ship, if she is to carry passengers to any port in the Red Sea, that she is propelled principally by steam, and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in the prescribed manner;

(g) in the case of a pilgrim ship, that she is propelled principally by steam and that she is of the tonnage and steam power (if any) prescribed;

(h) in the case of a pilgrim ship, if she is to carry more than one hundred pilgrims, that she has on board the medical officer or officers required by this Part and the prescribed attendants; and

(i) such other particulars, if any, as may be prescribed for native passenger or pilgrim ships, as the case may be.

156. If an officer appointed in this behalf by the Local Government is satisfied that a native passenger or pilgrim has brought on board a native passenger or pilgrim ship for his own use food of the quality and in the quantity prescribed, the requirements of this Part, respecting the supply of food for passengers or pilgrims, shall not apply so far as regards the supply of food for that passenger or pilgrim.

157. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 151 who is hereinafter referred to as the certifying officer.

158. Where the master of a ship produces to the certifying officer one of the certificates of survey referred to in sections 138. and 144 in respect of the ship in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed, the certifying officer may, if the particulars required by section 154 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Part.

159. (1) After receiving the notice required by section 151 the certifying officer may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the service on which she is to be employed;

Provided that he shall not cause a ship holding one of the certificates of survey referred to in Part III to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the service on which she is to be employed.

(2) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for the service on which she is to be employed, the expense of the survey shall be paid by the Local Government.

160. (1) The certifying officer shall not grant a certificate unless he is satisfied that the ship has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the native passengers or pilgrims.

(2) Save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the certifying officer to grant or withhold the certificate.

(5) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government appoints in this behalf.

Act X of
1887, s. 16,
Act XIV of
1895, s. 17.

161. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Part in respect of the ship, and shall keep those copies so posted up throughout the voyage.

Act X of
1887, s. 31.
Act XIV of
1895, s. 37.

162. (1) If a native passenger or pilgrim ship departs or proceeds on a voyage from, or discharges native passengers or pilgrims at, any port or place within British India in contravention of the provisions of this Part, or if a person is received as a native passenger or pilgrim on board any such ship in contravention of the provisions of this Part, the master or owner shall, for every native passenger or pilgrim carried in the ship, or for every native passenger or pilgrim so discharged or received on board, be liable to a fine which may extend to one hundred rupees or to imprisonment for a term which may extend to one month, or to both :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

(2) The ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Part by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Part with all costs, has been enforced, under the provisions of this Part.

Act X of
1887, s. 32.
Act XIV of
1895, s. 38.

163. If a person impedes or refuses to allow any entry or inspection authorised by or under this Part, he shall be liable to a fine which may extend to five hundred rupees for each offence, or to imprisonment for a term which may extend to three months, or to both.

Act X of
1887, s. 33.
Act XIV of
1895, s. 39.

164. If the master or owner of a native passenger or pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of this Part with respect to the posting of copies of certificates, he shall be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Act X of
1887, s. 35.
Act XIV of
1895, s. 41.

165. If the master of a native passenger or pilgrim ship after having obtained any of the certificates mentioned in this Part fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her native passengers or pilgrims, as the case may be, or other matters to which the certificate relates, he shall be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

166. If the master of a native passenger or pilgrim ship without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any passenger or pilgrim the prescribed allowance of food, fuel and water, as required by the provisions of this Part, he shall be liable to a fine which may extend to twenty rupees for every native passenger or pilgrim who has sustained detriment by the omission.

Act X of
1887, s. 36
Act XIV of
1895, s. 42.

167. (1) If a native passenger or pilgrim ship has on board a number of excessive number of native passengers or pilgrims which is greater than the number allowed for the ship by or under this Part, the master and owner shall, for every such passenger or pilgrim over and above that number, be each liable to a fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger or pilgrim :
Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

Act X of
1887, s. 37
Act XIV of
1895, s. 43

(2) Any officer authorised in this behalf by the Local Government may cause all native passengers or pilgrims over and above the number allowed by or under this Part to disembark, and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Part, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

168. If the master of a native passenger or pilgrim ship lands any native passenger or pilgrim at any port or place other than the port or place at which the native passenger or pilgrim may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be liable to a fine which may extend to two hundred rupees, or to imprisonment for a term which may extend to one month, or to both.

Act X of
1887, s. 39
Act XIV of
1895, s. 44

169. If a native passenger or pilgrim ship, other-wise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the native passengers or pilgrims with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

Act X of
1887, s. 40
Act XIV of
1895, s. 45

170. (1) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place within British India at which a native passenger or pilgrim ship touches or arrives, shall, with advertence to the provisions of this Part, send any particulars which he may deem important

Act X of
1887, s. 6
Act XIV of
1895, s. 5

respecting the native passenger or pilgrim ship, and the native passengers or pilgrims carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within British India where the native passengers or pilgrims or any of them embarked or are to be discharged.

(2) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place in British India at which a ship to which this Part applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of native passengers or pilgrims and other matters have been complied with.

X of 17, s. 52.
XIV of 5, s. 57.
171. In any proceeding for the adjudication of any penalty incurred under this Part any document purporting to be a report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of His Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Part is held.

X of 7, s. 48.
XIV of 5, s. 53.
172. The penalties to which masters and owners of native passenger ships are made liable by this Part shall be enforced only on information laid at the instance of a certifying officer, or at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

X of 1, s. 54.
XIV of 5, s. 60.
173. The Local Government shall appoint such persons as it thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Part or may be conferred and imposed thereunder.

Special Provisions relating to Native Passenger Ships.

X of 1, s. 5.
174. (1) "Long voyage" means, subject to the provisions of this Part relating to native passenger ships, any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port.

(2) "Short voyage" means, subject to the provisions of this Part relating to native passenger ships, any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port.

X of 1, s. 56.
175. The Governor General in Council may declare, by notification in the Gazette of India, what shall be deemed to be, for the purposes of this Part relating to native passenger-ships, "seasons of fair weather" and "seasons of foul weather", and, for sailing-ships and steamships, respectively, a "long voyage" and a "short voyage."

176. (1) For seasons of fair weather, a native passenger ship performing a short voyage shall, subject to the provisions of this Part, contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

(2) For seasons of foul weather, a native passenger ship propelled by sails and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(3) For seasons of foul weather, a native passenger ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(4) In seasons of foul weather a native passenger ship shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

177. If a native passenger ship performing a short voyage takes additional native passengers on board at an intermediate port or place, the master shall obtain from the certifying officer at that port or place a supplementary certificate stating—

- the number of native passengers so taken on board, and
- that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship, have been placed on board, of the quality prescribed, properly packed and sufficient to supply the native passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed :

Provided that, if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her, have been placed on board, of the quality prescribed by the rules, properly packed and sufficient to supply the full number of native passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

178. When the ship after performing a short voyage reaches her final port or place of arrival, the master shall notify to such officer as the Local Government appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage.

Act X of 1887, s. 18.

Act X of 1887, s. 19.

Act X of 1887, s. 20.
Act XXXVII, of 1920.

Act X of
1887, s. 21.

179. (1) A native passenger ship propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger.

(2) A native passenger ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

Act X of
1887, s. 22.

180. The master of a native passenger ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the native passengers, and the number of the crew, and shall deliver them to the certifying officer, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

Act X of
1887, s. 23.

181. The master of any such ship shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any native passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place where it may be intended to land native passengers, and before any passenger leaves the ship, produce the statement with any additions made thereto to a person lawfully exercising consular authority on behalf of His Majesty at the port or place, or to the Chief Customs-officer thereat or the certifying officer, if any, appointed there.

Act X of
1887, s. 24.

182. (1) In either of the following cases, namely,—
Ship taking additional passengers at intermediate place.

(a) if after the ship has departed or proceeded on a long voyage any additional native passengers are taken on board at a port or place within British India appointed under this Part for the embarkation of native passengers, or

(b) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional native passengers at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(2) All the foregoing provisions of this Part with respect to certificate B and statements concerning native passengers shall be applicable to any certificate granted or statement made under this section,

183. (1) A ship carrying native passengers from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

(2) If this section is not complied with, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both.

184. (1) A ship carrying more than one hundred native passengers from or to any port in British India to or from any port in the Red Sea shall have on board a medical officer licensed in the prescribed manner.

(2) If this section is not complied with, the master shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

185. (1) A ship carrying native passengers from or to any port in British India other than Aden to or from any port in the Red Sea touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

(2) If the master without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden or leaves that port without having obtained a bill of health under this section, he shall, for every such offence, be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

(3) If, in the case of any such ship as is referred to in this section, the master or the medical officer, if any, of the ship without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Part applicable to the ship, he shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months, or to both.

186. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of native passengers than the number allowed for the ship by or under this Part, and may refuse to grant it if the requirements of any rule under this Part are not complied with on board the ship.

187. In the case of a ship carrying native passengers from any port in British India other than Aden to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for the ship shall not grant the clearance unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees, conditioned—

(a) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty native passengers, and

(b) that the master and medical officer (if any) of the ship shall on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty native passengers, comply with the provisions of this Part and of such rules relating to ships carrying native passengers between ports in British India and ports in the Red Sea as the Governor General in Council may make under this Part.

x of
s. 30. **188.** (1) The Local Government may direct Power for Local Government to direct medical inspection of passengers.

that no native passenger shall be received on board any ship, or any ship of a specified class, carrying native passengers from any port in British India to any port in the Red Sea, unless and until the passenger has been inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose.

(2) If, in the opinion of the officer making an inspection under this section, a native passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

of
s. 45. (3) If the master of any such ship knowingly receives on board the ship any person in contravention of this section, he shall be liable to a fine which may extend to five hundred rupees for each person so received, or to imprisonment which may extend to three months or to both.

of
s. 34. **189.** If a master fails to comply with any of the requirements of section 180 or section 181 as to the statements concerning native passengers, or wilfully makes any false entry or note in or on any such statement, or without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such supplementary certificate as is mentioned in section 177 or to report deaths as required by section 178 or to obtain any such fresh certificate, or to make any such statement of the number of additional native passengers, as is mentioned in section 182, he shall be liable to a fine which may extend to five hundred rupees for every such offence, or to imprisonment for a term which may extend to three months, or to both.

of
s. 38. **190.** If a ship carrying native passengers from any port or place beyond British India to any port or place in British India has on board a number of passengers greater either than the number allowed for the ship by or under this Part or than the number allowed by the licence or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every native passenger in excess of that number, be each liable to a fine which may extend to twenty rupees.

of
s. 53. **191.** (1) The Governor General in Council may make rules consistent with this Part to regulate, in the case of any native passenger ship or class of such ships, all or any of the following matters, namely:—

(a) the scale on which food, fuel and water are to be supplied to the passengers or to

any class or classes of passengers, and the quality of the food, fuel and water;

(b) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;

(c) the licensing and appointment of medical officers in cases where they are required by this Part to be carried;

(d) the boats, anchors and cables to be provided on board;

(e) the instruments for purposes of navigation to be supplied;

(f) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires;

(g) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to lifebuoys;

(h) the functions of the master, medical officer (if any) and other officers of the ship during the voyage;

(i) the access of between-decks passengers to the upper deck; and

(j) generally, to carry out the purposes of this Part.

(2) The Local Government may make rules consistent with this Part to regulate, in the case of any native passenger ship or class of such ships,—

(a) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Part in that behalf; and

(b) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board.

(3) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

192. The Governor General in Council may by order prescribe, in the case of any native passenger ship or class of such ships, and for all or any voyages,

the number of superficial or of cubic feet of space to be available for native passengers; and the order shall be alternative to, or override, as the Governor General in Council may direct, the requirements on that subject of this Part so far as they apply to that ship or class of ships.

*Special Provisions regarding Pilgrim Ships.*Act XIV of
1895, s. 19.

193. (1) The Governor General in Council may by order determine the number of superficial and cubic feet of space (not being less than the space for the time being required for passengers under this Act) to be available in the between-decks for pilgrims of each class respectively on board pilgrim ships.

(2) Every pilgrim ship shall have reserved for the use of the pilgrims on board gratuitously by day and by night so much of the upper deck as is not required for the airing space of the crew or for permanent structures :

Provided that the upper-deck space available for pilgrims shall in no case be less than six superficial feet for each pilgrim of the age of twelve years or upwards on board.

(3) Subject as aforesaid and to any rules which may be made under this Act, such space may be allotted among the different classes of pilgrims in such proportion as may be thought fit :

Provided that not less space shall be allotted to any one class than will provide six superficial feet of space available for each pilgrim of the age of twelve years or upwards of that class on board.

Act XIV of
1895, s. 20.

194. The baggage of all pilgrims shall be disposed of on board in such manner as may be prescribed.

Act XIV of
1895, s. 21.

195. There shall be a regularly appointed hospital on board every pilgrim ship offering such conditions of security, health and space, and capable of accommodating such number, not exceeding five per cent. of the pilgrims embarked, as may be prescribed.

Act XIV of
1895, s. 22.

196. The master of every pilgrim ship departing or proceeding from any port or place in British India shall sign a statement in duplicate in the prescribed form specifying the total number and the number of each sex of all the pilgrims embarked and the number of the crew, and such other particulars as may be prescribed, and shall deliver both copies to the certifying officer who shall thereupon, after having first satisfied himself that the entries are correct, countersign and return to the master one of the copies.

Act XIV of
1895, s. 23.

197. The master of every pilgrim ship shall note in writing on the copy of the statement returned to him under the last foregoing section, and on any additional statement to be made under the next following section, the date and supposed cause of death of any pilgrim who may die on the voyage, and shall, when the pilgrim ship arrives at her port or place of destination, or at any port or place at which it may be intended to land pilgrims, and before any pilgrims disembark, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of His Majesty at the port or place or to the Chief Customs-officer thereat or the certifying officer (if any) appointed there.

198. (1) In either of the following cases, Act XIV of 1895, s. 24.
Pilgrim ship taking additional pilgrims at intermediate place. namely :—

- (a) if, after a pilgrim ship has departed or proceeded on her voyage, any additional pilgrims are taken on board at a port or place within British India appointed under this Act for the embarkation of pilgrims, or
- (b) if a pilgrim ship upon her voyage touches or arrives at any such port or place, having previously received on board additional pilgrims at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the certifying officer at that port or place, and shall furnish an additional statement, in duplicate in the prescribed form, respecting such additional pilgrims.

(2) All the foregoing provisions of this Part with respect to certificate B, and the statement concerning pilgrims to be signed and delivered by the masters of pilgrim ships, shall be applicable to any certificate granted or statement furnished under this section.

199. The master of every pilgrim ship arriving at any port or place in British India at which it may be intended to discharge pilgrims shall, before any pilgrims disembark, deliver a statement signed by him, specifying the total number and the number of each sex of all the pilgrims on board and the number of the crew, and such other particulars as may be prescribed, to the certifying officer appointed thereat.

200. (1) Every pilgrim ship shall be propelled principally by steam, and shall be of the tonnage and steam-power (if any) prescribed.

(2) If this section is not complied with, the master and owner shall each be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both.

201. (1) Every pilgrim ship carrying more than one hundred pilgrims shall have on board a medical officer licensed as prescribed and, if the number carried exceed one thousand, a second medical officer similarly licensed, and also in all cases such attendants as may be prescribed.

(2) If this section is not complied with, the master shall be liable to a fine which may extend to five hundred rupees, or to imprisonment which may extend to three months, or to both.

202. The medical officer or officers of every pilgrim ship shall keep such diaries and reports, and shall submit such reports or other returns, as may be prescribed.

203. (1) Every pilgrim ship, proceeding from any port in British India other than Aden to any port in the Red Sea, shall touch at Aden, and shall not leave that port without having

obtained from the proper authority a certificate stating whether any case of cholera has or has not occurred on board since the ship left the port of last departure.

Act XIV
1895, s. 48.

(2) If the master of any such ship, without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden or leaves that port without having obtained the certificate required by this section, he shall for every such offence be liable to a fine which may extend to two thousand rupees, or to imprisonment for a term which may extend to six months, or to both.

Act XIV of
1895, s. 30.

204. The authority at Aden empowered to grant the certificate required under section 203 may refuse to permit the ship to leave that port if the provisions of this Part or any rule thereunder are not complied with on board such ship.

Act XIV of
1895, s. 31.

205. In the case of every pilgrim ship proceeding from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port-clearance shall not grant the clearance unless or until the master, owner or agent and two sureties resident in British India have executed, in favour of the Secretary of State for India in Council, a joint and several bond, for the sum of five thousand rupees, conditioned—

- (a) that the ship (if the voyage do not commence at Aden) shall touch at Aden on the outward voyage and there obtain the certificate required by section 203, and
- (b) that the master and medical officer or officers (if any) shall comply with the provisions of this Part and the rules thereunder.

Act XIV of
1895, s. 32.

206. (1) No pilgrim shall be received on board any pilgrim ship at any port or place in British India unless and until he has been medically inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, nor until the certifying officer has given permission for the embarkation of pilgrims to commence.

(2) If, in the opinion of the officer making an inspection under this section, any pilgrim is suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, such pilgrim shall not be permitted to embark.

(3) All articles which have been contaminated by persons suffering from cholera or choleraic indisposition, or any dangerously infectious or contagious disease, or are suspected of having been so contaminated shall, before being taken on board a pilgrim ship, be disinfected, under the supervision of a medical officer appointed by the Local Government for the purpose, in such manner as may be prescribed.

Act XIV of
1895, s. 49.

(4) If the master of any such ship knowingly receives on board any pilgrim or contaminated article in contravention of this section, he shall be liable to a fine which may extend to five hundred rupees for each pilgrim or fifty rupees for each article so received, or to imprisonment which may extend to three months, or to both.

207. (1) If in any case a pilgrim ship does not proceed on her voyage with-
Medical inspection after embarkation in in forty-eight hours after certain cases. all the pilgrims have been received on board, and there is reason to suspect that any person on board is suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, a medical inspection of all persons on board may be held in such manner as the Local Government may direct.

Act XIV of
1895, s. 33.

(2) If on such inspection any person is found to be suffering from cholera or choleraic indisposition or any dangerously infectious or contagious disease, or shows any signs of the same or any other suspicious symptoms, he shall, together with all articles belonging to him, be at once removed from the ship.

(3) If the master of any such ship knowingly keeps on board any pilgrim or article ordered to be removed under this section, he shall be liable to a fine which may extend to five hundred rupees for each pilgrim, or to fifty rupees for each article, so kept on board, or to imprisonment which may extend to three months, or to both.

Act XIV of
1895, s. 34.

208. So far as may be practicable, and subject to any rules which may be made under this Act, the medical inspection of female pilgrims shall be carried out by women.

Medical inspection of women.

209. (1) Every pilgrim shall be entitled, on payment of his passage-money and fulfilment of the other prescribed conditions (if any), to receive a ticket in the prescribed form, and shall be bound to produce the same to such officers and on such occasions as may be prescribed, and otherwise to deal with the same in the prescribed manner.

Act XIV of
1895, s. 35.

(2) Every pilgrim prevented from embarking under section 206 or removed from the ship under section 207, or otherwise prevented from proceeding shall be entitled to the refund of any passage-money he may have paid, subject to any conditions or deductions which may be prescribed.

210. The master of every pilgrim ship shall be bound to pay the whole amount of the sanitary taxes imposed by lawful authority at the ports visited if and so far as such taxes are included in the cost of the tickets issued to the pilgrims.

Act XIV of
1895, s. 36.

211. If the master of a pilgrim ship fails to comply with any of the requirements of section 196, section 197 or section 199 as to the statements concerning pilgrims, or wilfully makes any false entry or note in or on any such statement, or fails to obtain any such fresh certificate or to make any such statement of the number of additional pilgrims as is mentioned in section 198, he shall be liable to a fine which may extend to five hundred rupees for every such offence, or to imprisonment for a term which may extend to three months, or to both.

Act XIV of
1895, s. 40.

Act XIV of
1914, s. 50.

212. If the master or the medical officer (if any)

Penalty on master or medical officer of pilgrim ship disobeying rules under this Act.

of a pilgrim ship, without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Part, he shall be liable to a fine which may extend to five hundred rupees, or to imprisonment for a term which may extend to three months or to both.

Act XIV of
1914, s. 53.

213. (1) The Governor General in Council may make rules to regulate all or any of the following matters, namely :—
Power for Governor General in Council and Local Government to make rules.

- (a) the boats, anchors and cables to be provided on board pilgrim ships ;
- (b) the instruments for purposes of navigation to be supplied ;
- (c) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent and deal with such fires ;
- (d) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;
- (e) the fittings and other appliances to be provided in the upper and between-decks for the comfort and convenience of pilgrims ;
- (f) the scale on which, and manner in which, food, fuel and water are to be supplied to pilgrims, and the quality of such food, fuel and water ;
- (g) the quality, quantity and storage of the cargo to be carried ;
- (h) the allotment of the upper-deck space between the various classes of pilgrims ;
- (i) the amount and distribution of the baggage of pilgrims ;
- (j) the nature and the extent of the hospital accommodation and the medical stores, disinfectants, and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency ;
- (k) the form of the statements to be furnished by the master under sections 196 and 199, and the particulars to be entered therein ;
- (l) the tonnage and steam-power to be required in the case of pilgrim ships, and the voyages to which, and seasons at which, such rules shall respectively apply ;
- (m) the licensing and appointment of medical officers and other attendants in cases where they are required by this Part to be carried, and the diaries, reports and other returns to be kept or submitted by such medical officers ;
- (n) the manner in which contaminated articles shall be disinfected before being taken on board a pilgrim ship ;
- (o) the manner in which, and the persons by whom, the medical inspection of women shall be carried out ;

(p) the supply of tickets to intending pilgrims, the form of such tickets and the conditions and other matters to be specified thereon, and the amount of the sanitary taxes to be included in the cost thereof ;

(q) the refund of passage-money to intending pilgrims who may not be permitted to embark, or who having embarked may be removed from the ship under the powers conferred by this Part or who may otherwise for any unavoidable cause be prevented from proceeding in any pilgrim ship ;

(r) the functions of the master, medical officer or officers (if any) and other officers during the voyage ; and

(s) generally, to carry out the provisions of this Part relating to pilgrim ships.

(2) The Local Government may make rules consistent with this Act to regulate—

Act IV of
1914, Sch.
Part I.

(a) the local limits within which, and the time and mode at and in which, pilgrims shall be embarked or discharged at any port or place appointed under this Part in that behalf ; and

(b) the time within which a pilgrim ship shall depart or proceed on her voyage after commencing to take pilgrims on board.

(3) In making a rule under this section, the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

PART V.

SAFETY.

Prevention of Collisions.

214. (1) The Local Government may appoint Appointment of persons to inspect, in any inspectors of lights and port, ships to which the fog-signals. regulations for preventing collisions at sea, issued under the provisions of the Merchant Shipping Acts, or any other similar law for the time being in force, may apply, for the purpose of seeing that such ships are properly provided with lights and with the means of making fog-signals, in pursuance of such regulations or law.

Act VII of
1880, s. 81.
M. S. A.,
s. 420.

(2) Every person so appointed shall in the port for which he is appointed have, for the purposes of such inspection, the following powers—

Act VII of
1880, s. 11.

(a) he may go on board any ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage ;

- (b) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries he thinks fit to make ;
- (c) he may require and enforce the production of all books, papers or documents which he considers important ; and
- (d) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Act VII of
1880, s. 82,
M. S. A.,
s. 420 (1).

215. If any person so appointed finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.

Act VII of
1880, s. 83.

216. Every notice so given shall be communicated in such manner as the Local Government may direct to the Customs-collector at any port from which such ship may seek to clear; and no Customs-collector to whom such communication is made shall grant such ship a port-clearance or allow her to proceed to sea without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog-signals in pursuance of the said regulations or law.

Draught of Water and Load-line.

Act VII of
1880, ss. 83
and 85 as
amended by
Act XVII of
1891, s. 4,
and
Act XVIII
of 1908, s. 4.
M. S. A.,
s. 487.

217. (1) Save as otherwise provided in this Act, every ship, British or foreign, while in any port in British India shall be permanently and conspicuously marked outside with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships, or as near thereto as practicable, and indicating the position of each deck which is above water.

(2) The upper edge of each of these lines shall be level with the upper side of the deck-plank next the waterway at the place of marking.

(3) The lines shall be white or yellow on a dark ground, or black on a light ground.

(4) In this Part the expression "amidships" means the middle of the length of the loadwater-line as measured from the fore side of the stem to the aft side of the stern-post.

Act VII of
1880, ss.
84, 86
and 85 as
amended by
Act XVII of
1891, s. 4,
and
Act XVIII
of 1908, s. 4.
M. S. A.,
s. 488.

218. (1) Save as otherwise provided in this Act, the master of every ship, British or foreign, while in any port in British India shall, before the time hereinafter mentioned, mark outside upon each of her sides amidships, or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

(2) The centre of the disc shall be placed at such level below the deck-line marked under the provisions of this Part or of the Merchant Shipping Acts, as may be approved by the Local Government, and shall indicate the maximum

load-line in perfectly smooth salt-water to which it shall be lawful to load the ship.

(3) The position of the disc shall be fixed in accordance with the tables used from time to time by the Board of Trade subject to such allowance as may be necessary in consequence of any difference between the position of the deck-line marked under the provisions of this Part or of the Merchant Shipping Acts, and the position of the line from which free-board is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof, as may from time to time, with the previous approval of the Governor General in Council, be sanctioned by the Local Government.

(4) Any load-line marked under the Merchant Shipping Acts or under any enactment of any British Possession regarding which an Order in Council under section 444 of the Merchant Shipping Act, 1894, exists, and any certificate given in pursuance of these Acts or any such enactment in respect of such marking, shall have the same effect as if it had been marked or given in pursuance of this Part.

219. If any ship, British or foreign, while in any port in British India, is so loaded as to submerge in perfectly smooth salt water the centre of the disc indicating the load-line, the ship shall be deemed to be an unsafe ship within the meaning of the provisions hereinafter contained in this Part.

220. (1) When any British or foreign-going ship proceeds on any voyage from a port in British India for which the owner is required to enter the ship outwards, the disc indicating the load-line shall be marked before so entering her, or, if that is not practicable, as soon afterwards as may be.

(2) Every person applying for entry of any such ship outwards shall insert, in the form of application made to the Customs-collector, a statement in writing of the distance in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's decks which is above such centre ; and, if default be made in delivering this statement, the Customs-collector may refuse to enter the ship outwards.

(3) The master of every British or foreign-going ship shall enter a copy of this statement in the agreement with the crew before it is signed by any member of the crew, and no shipping-master shall proceed with the engagement of a crew for any such ship until this entry has been made.

(4) The master of every British or foreign-going ship shall enter a copy of this statement in the official log-book (if any).

(5) When a ship has been marked as by this section required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

221. (1) When a ship which is a coasting vessel within the meaning of the Sea Customs Act, 1878, is required to be marked with the disc indicating the load-line, she shall be so marked before the ship proceeds to sea from any port.

Act VII of
1880, s. 37.

(2) The master shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Customs-collector, or other principal officer of Customs, of such port as the Local Government may appoint in this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

(3) The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the Customs-collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

(4) If default be made in sending or delivering any notice or statement required by this section to be sent or delivered, the master shall be liable to a fine which may extend to one thousand rupees.

(5) When a ship has been marked as required by this section, she shall be kept so marked until notice has been given of an alteration.

222. (1) It—

Penalty for offences
relating to marking of
load line.

(a) any master of a ship neglects to cause his ship to be marked as by this Part required or to keep her so marked, or allows the ship to be so loaded that when in perfectly smooth salt-water the centre of the disc is submerged; or he conceals, removes, alters, defaces, bliterates, or suffers any person in his control to conceal, remove, deface or obliterate, any of the marks prescribed by or under this Part except in the event of the disc thereby denoted being lawfully altered, or for the purpose of being used by an enemy;

Penalty for each such offence shall be a fine not exceeding one thousand rupees.

in which any of the provisions of this Part are likely to be violated, or to cause such violation, shall be liable to a fine not exceeding one thousand rupees.

Penalty—

by any
person
being
in charge
of the ship

in Council, fix the fees to be taken in respect of any such approval or certificate.

224. The Local Government, with the previous sanction of the Governor-General in Council, may make rules—

(a) determining the lines or marks to be used in connection with any such disc as aforesaid, in order to indicate the maximum load-line under different circumstances and at different seasons, and declaring that the provisions of this Part are to have effect as if any such line were drawn through the centre of the disc;

(b) as to the mode in which the disc and the lines or marks to be used in connection therewith are to be marked or affixed on the ship, whether by painting, cutting or otherwise;

(c) as to the mode of application for, and form of, certificates under this Chapter; and

(d) as to the entry of such certificates, and any other prescribed particulars concerning the draught of water and free-board of the ship, in the official log (if any) of the ship, or other publication thereof on board the ship, and as to delivering copies of such entries.

(2) Rules under clause (a) of sub-section (1) may, with respect to any class or classes of ships,—

(i) declare what shall be deemed to be seasons of fair weather and seasons of foul weather, respectively, for any of the purposes of the rules, and

(ii) modify the tables referred to in sub-section (3) of section 218.

Grain-Cargo.

225. No cargo of which more than one-third consists of any kind of grain, corn, rice, paddy, pulse, seeds, nuts or nut-kernels (hereinafter referred to as grain-cargo) shall be carried on board any British or foreign ship unless the same be contained in bags, sacks or barrels, or secured from shifting by boards or bulkheads or otherwise.

226. If the owner or master of any ship, or any agent of such owner who is charged with the loading of such ship or the sending her to sea, knowingly allows any grain-cargo or part of a grain-cargo to be shipped therein for carriage contrary to the provisions of the last foregoing section, he shall be liable to a fine which may extend to three thousand rupees.

Penalty for improper stowage of such cargo, is charged with the loading of such ship or the sending her to sea, knowingly allows any grain-cargo or part of a grain-cargo to be shipped therein for carriage contrary to the provisions of the last foregoing section, he shall be liable to a fine which may extend to three thousand rupees.

Savings.

227. Nothing in the provisions of this Part relating to the overloading and improper loading of ships or to the marking of lines shall apply to—
(a) sailing-ships of less than one hundred tons employed in plying between ports situated in Ceylon;
(b) ships of less than one hundred tons employed in fishing;

Act VII of
1880, s. 40, amended
by Act
XVIII of
1891, s. 4.
M. S. A.,
s. 443 (2).

Act VII of
1880, s. 22
M. S. A.,
s. 462.

Act VII of
1880, s. 85,
as amended
by Act
XVIII of
1908, s. 4.
Act VII of
1880, s. 3.
Act XVIII
of 1908, s. 4.

(iv) any foreign ship not bound to a port in British India for any purpose other than the purpose of embarking or landing passengers or taking in or discharging cargo or taking in bunker coal;

(v) any foreign ship which, if in a port of the United Kingdom, would be entitled to the benefit of a direction of His Majesty in Council under section 445 of the Merchant Shipping Act, 1894.

Act XVII of 1891, s. 2.

228. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, exclude from, or bring again within the operation of, all or any of the provisions of this Part relating to the overloading and improper loading of ships or to the marking of deck and load-lines subject to such modifications thereof (if any) as may be specified in the notification, any native craft not square-rigged.

Act XVIII of 1908, s. 2.

(2) The Governor General in Council may, by notification in the Gazette of India, exclude from, or bring again within the operation of, the provisions of this Part relating to the marking of deck and load-lines any steam-ships of less than one hundred and fifty tons which are employed in plying coastwise between ports situated in India and Ceylon and do not carry cargo.

Unseaworthy Ships.

Act VII of 1880, s. 5.
M. S. A., s. 457.

229. (1) Every person who sends or attempts to send a British ship to sea from any port in British India in such an unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

(2) Every master of a British ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was, under the circumstances reasonable and justifiable, be liable to imprisonment for a term which may extend to six months, or to a fine which may extend to one thousand rupees, or to both.

(3) For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

(4) No prosecution under this section shall be instituted except by, or with the consent of, the Local Government.

Act VII of 1880, s. 4.

230. A ship is "unseaworthy" within the meaning of this Part if, in consequence of the materials of which she is made, her construction, the qualifications of the master, the number and description of the crew, the weight, description and stowage of the cargo, the state of the tackle, sails, rigging, stores or equipment, or of any of them, or of any of the foregoing, she is not fitted to encounter the ordinary perils of the service in which she is engaged.

231. (1) In every contract of service, express or implied, between the owner of a British ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to secure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state for the voyage during the same.

(2) Nothing in this section shall subject such owner to any liability by reason of such ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending her to sea is reasonable and justifiable.

Detention of unsafe ships by the Local Government.

232. (1) Where a British ship in any port to which the Local Government may specially extend its jurisdiction is found to be in an unsafe condition, that is to say, is by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, or by reason of any other defect, such that she is not fit to proceed to sea without serious danger to life, having regard to the nature of the service for which she is intended, such ship shall be provisionally detained for the purpose of being surveyed and either finally detained or released, namely:—

(a) The Local Government, if it believes, on complaint or otherwise, that any such ship is in an unsafe condition, may cause her to be surveyed.

(b) A written report may be made by the surveyor.

(c) When the ship is found to be in an unsafe condition, the surveyor may detain her.

seven days after such service the owner or master may appeal against such report, in the manner prescribed, to the Court of Survey for the port where the ship is detained.

Act VII of
1880, s. 9.
M. S. A.,
s. 459 (e).

(e) Where a ship has been provisionally detained and a person has been appointed under this section to survey such ship, the owner or master of the ship, at any time before such person makes that survey, may require that he shall take with him as assessor such person as the owner or master may select, being a person named in the list of assessors for the Court of Survey or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, a person of nautical, engineering or other special skill and experience. If the surveyor and assessor agree that the ship should be detained or released, the Local Government shall cause the ship to be detained or released accordingly, and the owner or master shall have no appeal. If the surveyor and assessor differ in their report, the Local Government may act as if the requisition had not been made, and the owner or master shall have such appeal touching the report of the surveyor as is hereinbefore provided in this section.

(f) Where a ship has been provisionally detained, the Local Government may, at any time if it thinks it expedient, refer the matter to the Court of Survey for the port where the ship is detained.

Act VII of
1880, s. 44.

(g) The Local Government may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

Act VII of
1880, s. 12.

(2) Any person appointed by the Local Government for the purpose (in this Act referred to as a "detaining-officer") shall have the same power as the Local Government has under this section of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person to survey her; and if he thinks that a ship so detained by him is not unsafe, may order her to be released.

(3) A detaining-officer shall forthwith report to the Local Government any order made by him for the detention or release of a ship.

Act VII of
1880, s. 48.

(4) A ship detained under this section shall not be released by reason of her British or British Indian register being subsequently closed.

(5) A detaining-officer shall have, for the purpose of his duties under this Part, the following powers, namely:—

(a) he may go on board any British ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not

unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage;

(b) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such persons, and may, by a like summons, require returns in writing to any inquiries he thinks fit to make;

(c) he may require and enforce the production of all books, papers or documents which he considers important; and

(d) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

Costs of detention and damages incidental thereto.

233. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of a ship, the Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

234. If a ship is finally detained under this Part, or if it appears that a ship provisionally detained was at the time of such detention unsafe, the owner of the ship shall be liable to pay to Government its costs of and incidental to the detention and survey of the ship; and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

235. For the purposes of this Act, the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or any person appointed to represent the Local Government before the Court, shall be deemed to be part of the costs of the detention and survey of the ship.

236. When a complaint is made to the Local Government or a detaining-officer that a British ship is unsafe, it shall be in the discretion of such Government or officer (as the case may be) to require the complainant to give security to the satisfaction of such Government or officer for the costs and compensation which such complainant may become liable to pay as hereinafter mentioned:

Provided that, where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of such Government or officer frivolous or vexatious, such security shall not be required; and such Government or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this Part.

Act VII of
1880, s. 31.
M. S. A.,
s. 481 (3).

237. Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this Part to pay to the owner of the ship any costs of compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs, or is liable to pay, in respect of the detention and survey of the ship.

238. When a foreign ship is in a port in British India and is, whilst at that port, unsafe by reason of overloading or improper loading, the provisions of this Part with respect to the detention of ships shall apply to that foreign ship as if she were a British ship with the following modifications, namely:—

- (i) a copy of the order for the provisional detention of the ship shall forthwith be served on the consular officer for the country to which the ship belongs at or nearest to the port in which such ship is detained;
- (ii) the consular officer, at the request of the owner or master of the ship, may require that the person appointed by the Local Government to survey the ship shall be accompanied by such person as the consular officer may select, and in that case, if the surveyor and that person agree, the Local Government shall cause the ship to be detained or released accordingly; but, if they differ, the Local Government may act as if the requisition had not been made, and the owner and master shall have the like appeal to a Court of Survey touching the report of the surveyor as is hereinbefore provided in the case of a British ship; and
- (iii) where the owner or master of the ship appeals to the Court of Survey, the consular officer, at his request, may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were a British ship, would be appointed otherwise than by the Local Government.

Act VII of
1880, s. 33.

239. (1) The Local Government may, from time to time, by notification in the local official Gazette, delegate, either absolutely or subject to such conditions or restrictions as it thinks fit, to any body of Commissioners or trustees appointed for managing the affairs of a port, all or any of the powers, and require the said body to discharge all or any of the functions of a Local Government under the foregoing sections of this Part, except the power of making rules.

(2) While any such notification remains in force, all costs and damages which would otherwise be recoverable under this Part by or from the Government shall be recoverable in like manner by or from such body; and such body shall, notwithstanding anything to the contrary contained in any enactment for the time being in force, credit or pay, as the case may be, the amount

of any cost or damages so recovered to or from the funds held by them in trust as such body.

Installation of Wireless Telegraphy.

240. The provisions of this Part in regard to the installation of wireless telegraphy on ships registered in British India shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, direct.

241. In the provisions of this Part relating to the installation of wireless telegraphy, "passenger steamer" means a steam-ship which carries more than twelve passengers.

242. (1) Every sea-going British ship registered in British India, being a passenger steamer or a ship of sixteen hundred tons gross tonnage or upwards shall be provided with a wireless telegraph installation of the prescribed description, and shall maintain a wireless telegraph service of the prescribed nature and shall be provided with such certificated operators and watchers as may be prescribed:

Provided that the Governor General in Council may, by notification in the Gazette of India, exempt from the obligations imposed by this section, any ships or classes of ships if he is of opinion that, having regard to the nature of the voyages on which the ships are engaged, or other circumstances of the case, the provision of a wireless telegraph installation is unnecessary or unreasonable.

(2) If this section is not complied with in the case of any such ship, the master or owner of the ship shall be liable in respect of each offence to a fine which may extend to one thousand rupees.

243. (1) The Governor General in Council may appoint and appoint officers (hereinafter referred to in this Act as wireless telegraphy inspectors) for the purpose of seeing that the requirements of this Part relating to wireless telegraphy are complied with on board any ship.

(2) A wireless telegraphy inspector may inspect any ship for the purpose of seeing that she is properly provided with a wireless telegraph installation and certificated operators and watchers in conformity with this Part, and for this purpose may go on board any ship at all reasonable times and do all things necessary for the proper inspection of the ship for the purpose of the provisions of this Part relating to wireless telegraphy, and may also require the master of the ship to supply him with any information which it is in the power of the master to supply for that purpose, including the production of any certificate granted under this Part in respect of the installation, and of the certificates of the operators and watchers on the ship.

(3) If a wireless telegraphy inspector finds that a ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(4) Every notice given under sub-section (3) shall be communicated, in the prescribed manner, to the Chief Officer of Customs of any port at which the ship may seek to obtain port-clearance, who

Act XLI of
1920,
s. 1 (3).

Act XLI of
1920, s. 2.

Act XLI of
1920, s. 3.

Act XLI of
1920, s. 4.

shall order that the ship shall be detained until a certificate under the hand of a wireless telegraphy inspector is produced to the effect that the ship is properly provided with a wireless telegraph installation and certified operators and watchers in conformity with this Part.

Act XLI of 1920, s. 5.

244. The provisions of this Part relating to wireless telegraphy shall, as Application to ships other than British ships registered in British India. those provisions, apply to ships other than British ships registered in British India while they are within any port in British India in like manner as they apply to British ships registered in British India.

Act XLI of 1920, s. 6.

245. (1) The Governor General in Council may make rules to carry out the purposes of the provisions of this Part relating to wireless telegraphy.

(2) In particular and without prejudice to the generality of the foregoing power such rules may prescribe—

- (a) the nature of the wireless telegraph installation to be provided and of the service to be maintained, and the number, grades and qualifications of certified operators and watchers to be carried :

Provided that no ship shall be required to carry more than one operator, unless more than one operator would have been required under the provisions of the Merchant Shipping (Convention) Act, 1914 ;

- (b) the manner in which a notice given under sub-section (3) of section 243 shall be communicated to the Chief Officer of Customs.

PART VI.

SPECIAL SHIPPING INQUIRIES AND COURTS.

Act V of 1883, s. 6, amended by Act VI of 1891, s. 9 and Act XII of 1891, M. S. A., s. 464.

246. (1) For the purpose of inquiries and investigations under this Part a shipping casualty shall be deemed to occur when—

- (a) on or near the coasts of British India, any ship is lost, abandoned, stranded or materially damaged ;
- (b) any loss of life ensues by reason of any casualty happening to, or on board of, any ship on or near those coasts ;
- (c) on or near those coasts, any ship causes loss or material damage to any other ship ;
- (d) in any place any such loss, abandonment, stranding, damage or casualty occurs to, or on board of, any British ship, and any competent witness thereof is found at any place in British India ; or
- (e) any British ship is supposed to have been lost, and any evidence can be obtained in British India as to the circumstances under which she proceeded to sea or was last heard of.

(2) In sub-section (1) the word "coasts" includes the coasts of creeks and tidal rivers. Act VI of 1891, s. 9.

(3) In the cases mentioned in clauses (a), (b) and (c) of sub-section (1), the master, pilot, harbour-master or other person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the shipping casualty, and

in cases under clause (d) of sub-section (1), where the master of the ship concerned or (except in the case of a loss) where the ship concerned proceeds to any place in British India from the place where the shipping casualty has occurred, the master of the ship,

shall, on arriving in British India, give immediate notice of the shipping casualty to the nearest Magistrate or, when he arrives at a port in British India, to any officer appointed by the Local Government in this behalf at that port.

(4) Any person bound to give notice under this section and wilfully failing to give the same shall be liable to a fine which may extend to five hundred rupees, and, in default of payment, to simple imprisonment for a term which may extend to three months.

247. (1) Whenever any Magistrate or any officer appointed by the Local Government in this behalf receives credible information that a shipping casualty has occurred, he shall forthwith report in writing the information to the Local Government. Act V of 1883, s. 6.

(2) Any such Magistrate or officer —

- (i) may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on board thereof, to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage ; Act V of 1883, s. 6 (4) added by Act VI of 1891, s. 9, M. S. A., ss. 465 and 729.

(ii) may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make ;

(iii) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make ;

(iv) may require and enforce the production of all books, papers or documents which he considers important for such purpose ; and

(v) may administer oaths, or may, in lieu of requiring or administering an oath, require any person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

248 (1) If the Local Government to which the report prescribed by the last foregoing section has been made or within whose territories any competent witness of any shipping casualty has arrived or are to be found, or any evidence thereof can be obtained, is of opinion that a formal investigation into the shipping casualty is requisite or expedient, the Local Government may appoint a special Court, consisting of not less than two nor more than four persons, and direct that Court to make the investigation, and may fix the place for making the same. Act V of 1883, s. 7, Act VI of 1891, s. 10, M. S. A., s. 466.

(2) One of the members of the Court shall be a Magistrate acting in or near the place where the investigation is made; another shall be some person conversant with maritime affairs; and the other or others (if any) shall be conversant with either maritime or mercantile affairs.

Act V of
1883, s. 8.

Act VI of
1891, s. 11.

249. Every Colonial Court of Admiralty in British India, and the principal Court of ordinary criminal jurisdiction at every port of British India where there is no such Court is hereby authorized, when so directed by the Local Government or by such officer as the Local Government has empowered in this behalf, to make a formal investigation into a shipping casualty.

Act V of
1883, s. 9.

250. (1) Any Court making a formal investigation into a shipping casualty may inquire into any charge of incompetency or misconduct arising, in the course of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing the shipping casualty.

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer in the course of an investigation, the Court shall, before the commencement of the inquiry, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

Act V of
1883, s. 10.
M. S. A.,
ss 471 and
478.

251. (1) If the Local Government has reason to believe that there are grounds for charging any master, mate or engineer, with incompetency or misconduct, otherwise than in the course of a formal investigation into a shipping casualty, the Local Government—

- (a) if the master, mate or engineer holds a certificate under this Act, in any case,
- (b) if the master, mate or engineer holds a certificate under the Merchant Shipping Acts, in the following cases:—

- (i) where the incompetency or misconduct has occurred on a British ship on or near the coast of British India, or on board a British ship in the course of a voyage to a port within the colony;
- (ii) where the incompetency or misconduct has occurred on board a British ship registered in British India;
- (iii) where the master, mate or engineer of a British ship, who is charged with incompetency or misconduct on board that British ship is found in British India;

may transmit a statement of the case to any Court mentioned in section 249 at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct that Court to make an investigation into that charge.

(2) Before commencing the investigation, the Court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Local Government.

252. For the purpose of an investigation under this Part into any charge against a master, mate or engineer, the Court may summon him to appear, and shall give him full opportunity of making a defence either in person or otherwise.

253. For the purpose of any investigation under Act V of 1883, s. 12, Powers of Courts as this Part, the Court making the investigation, to evidence and regulation of proceedings, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

- (a) if the Court is a special Court—the same powers as are exercisable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made;
- (b) if the Court is a Court having admiralty jurisdiction or a principal Court of ordinary criminal jurisdiction—the same powers as are exercisable by that Court in the exercise of its admiralty or criminal jurisdiction (as the case may be).

254. (1) When any investigation involves, or appears likely to involve, any question as to the cancelling of a certificate of a master, mate or engineer, the Court making the investigation shall constitute as its assessors for the purpose of the investigation two persons having experience in the merchant service; and in every other investigation the Court making it may, if it thinks fit, constitute as its assessor for the purposes of the investigation any person conversant with maritime affairs and willing to act as its assessor.

(2) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings, but the exercise of all powers conferred on the Court by this Part or any other enactment for the time being in force shall rest with the Court.

255. (1) If any Court making an investigation under this Part thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorise any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

(2) Any officer so authorised may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest.

(3) No person shall be detained by virtue of this section for more than forty-eight hours.

256. (1) Whenever in the course of any such investigation, it appears that any person has committed within the jurisdiction of any Court in British India an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent

with this Act as the High Court may from time to time prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court, and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

Act V of
1883, s. IV.
M. S. A.,
470 (3).

257. (1) The Court shall, in the case of all investigations under this Part, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

(2) In cases in which, under the Merchant Shipping Acts, the Court is required to send a report to the Board of Trade, the report shall be sent through the Local Government, and the transmission of the report to the Local Government shall be a sufficient compliance with this section.

Suspension and Cancellation of Certificates and Grant of fresh Certificates.

Act V of
1883, s. 18.

258. Nothing in this Part shall affect the powers conferred by the Merchant Shipping Acts, on the Courts conducting investigations under this Part, to cancel or suspend certificates granted under any of the said Acts, or the power to remove the master of a ship conferred by section 472 of the Merchant Shipping Act, 1894.

7 & 58
Vict., c. 60.
Tr. Act I of
1859, s. 30.

259. (1) When any such Court cancels or suspends any such certificate the Local Government may if it thinks fit, and if it is so empowered by any enactment of a British Indian Legislature for the time being in force, grant under that enactment, but without examination, to the holder of the certificate, when the certificate is a certificate as master, a certificate as mate, and, when the certificate is a certificate as mate or engineer, a certificate as mate or engineer, as the case may be, of a grade lower than that which he held at the time of the cancellation or suspension.

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping Acts.

(3) The Local Government may act under this section either in pursuance of a recommendation from the Court or of its own motion.

Act V of
1883, s. 20.

260. (1) Any certificate which has been granted by any Local Government to any master, mate or engineer, may be suspended or cancelled, by that or any

other Local Government, in the following cases, that is to say:—

(a) if, on any investigation made under the M. S. A., Merchant Shipping Acts, or on any investigation made by any Court or tribunal for the time being authorised by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates or engineers of ships, or as to shipwrecks or other casualties affecting ships, the Court or tribunal reports that the master, mate or engineer is incompetent or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default;

(b) if he is proved to have been convicted of M. S. A., any offence which, if committed in British India, would be non-bailable, or, if committed in England, would be a felony; and

(c) if (in case of a master) he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1894, or by any other law for the time being in force.

(2) Notwithstanding anything contained in Act VII of this Act the Local Government may, at any time, without any formal investigation, suspend or cancel any engine driver's certificate granted by it if, in its opinion, the holder is, or has become, unfit to act as an engine driver.

261. If the Local Government which cancels or suspends a certificate of a master, mate or engineer is not the Local Government by or under the authority of which the same was granted, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to that Local Government.

262. Every Local Government cancelling or suspending under section 260 the certificate of a master, mate or engineer shall, as soon as may be practicable, report to the Board of Trade the fact of such cancellation or suspension.

263. (1) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section 260, or grant, without examination to any person whose certificate it has so cancelled, a new certificate of the same or of any lower grade.

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping Acts.

Act V of 1883, s. 24-A(1), inserted by Act VI of 1891, s. 13, M. S. A., s. 470.

264. (1) A certificate of a master, mate or engineer which has been granted by a Local Government under this Act may be cancelled or suspended—

Power of Court of Investigation or Inquiry as to certificates granted by a Local Government.

- (a) by a Court holding a formal investigation into a shipping casualty under this Part if the Court finds that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by the wrongful act or default of such master, mate or engineer;
- (b) by a Court holding an investigation under this Part into the conduct of the master, mate or engineer if the Court finds that he is incompetent or has been guilty of any gross act of drunkenness, tyranny or other misconduct.

Act V of 1883, s. 24-A(2) and (3).

(2) At the conclusion of the investigation, or as soon afterwards as possible, the Court shall state in open sitting the decision to which it may have come with respect to the cancellation or suspension of any certificate.

(3) Where the Court cancels or suspends a certificate, the Court shall forward it to the Local Government, together with the report which it is required by this Part to transmit to that Government.

Act V of 1883, s. 24-A(1), proviso and (5).

(4) A certificate shall not be cancelled or suspended by a Court under this section unless a copy of the report or a statement of the case on which the investigation or inquiry has been ordered has been furnished before the commencement of the investigation or inquiry to the holder of the certificate.

(5) The duties imposed and powers conferred by sections 261, 262 and 263 on the Local Government which cancels or suspends a certificate shall, when a Court has under this section cancelled or suspended a certificate, be performed and exercised by the Local Government to which the Court has forwarded the certificate under sub-section (3), as if such Local Government had itself cancelled or suspended the certificate under section 260.

Act I of 1859, s. 80. Act V of 1883, s. 4 (2). Act XVI of 1891, s. 4 (2). M. S. A., s. 472.

265. (1) The principal Court of ordinary criminal jurisdiction at any port in British India, where there is no Colonial Court of Admiralty, may remove the master of any ship within the jurisdiction of that Court if that removal is shown to the satisfaction of the Court by evidence on oath to be necessary.

(2) The removal may be made upon the application of the owner of any ship or his agent, or of the consignee of the ship, or of any certificated mate, or of one-third or more of the crew of the ship.

(3) The Court may appoint a new master instead of the one removed, but where the owner, agent or consignee of the ship is within the jurisdiction of the Court, such an appointment shall not be made without the consent of that owner, agent or consignee.

(4) The Court may also make such order and require such security in respect of the costs of the matter as the Court thinks fit.

266. A master, mate, or engineer whose certificate is cancelled or suspended by any Court or by the Local Government shall deliver his certificate—

Act V of 1883, ss. 21 and 24-A (4). M. S. A., s. 473.

- (a) if cancelled or suspended by a Court, to that Court;
- (b) if cancelled or suspended by a Local Government, to that Local Government, or to a shipping-master or other person appointed in this behalf by that Local Government.

(2) If a master, mate or engineer fails to comply with this section, he shall for each offence be liable to a fine which may extend to five hundred rupees.

Investigations into Explosions.

267. (1) Whenever any explosion occurs on board any steam-ship on or near the coasts of British India, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

Act VII of 1884, s. 37 (1) and (2).

(2) The person or persons so directed may enter into and on the steam-ship, with all necessary workmen and labourers, and remove any portion of the steam-ship, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what, in his or their opinion, was the cause of the explosion.

Courts of Survey.

268. (1) A Court of Survey for a port shall consist of a Judge sitting with two assessors.

Act VII of 1880, ss. 12, 14 and 15. M. S. A., s. 487 (1), (2) and (3).

(2) The Judge shall be a District Judge, Judge of a Court of Small Causes, Presidency Magistrate, Magistrate of the first class or other fit person appointed in this behalf by the Local Government either generally or for any specified case.

(3) The assessors shall be persons of nautical engineering or other special skill or experience.

(4) Subject to the provisions of Part V as regards foreign ships, one of the assessors shall be appointed by the Local Government either generally or in each case, and the other shall be summoned by the Judge in the manner prescribed, out of a list of persons from time to time prepared for the purpose and published by the Local Government in the local official Gazette, or, if there is no such list or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the Judge.

269. (1) The Judge shall, on receiving notice of an appeal or a reference from the Local Government, immediately summon the assessors to meet forthwith in the prescribed manner.

Act VII of 1880, s. 18. M. S. A., s. 487 (4).

(2) The Court of Survey shall hear every case in open Court.

Act VI of 1880, s. 17. M. S. A., s. 488 (1).

Act VII of
1880, s. 18.
M. S. A.,
s. 488 (2).

(3) The Judge and each assessor shall, for the purposes of this Act, have the same powers of inspection, and of enforcing the attendance of witnesses and the production of evidence, as are by this Act conferred on a detaining-officer.

Act VII of
1880, s. 19.
M. S. A.,
s. 488 (3).

(4) The Judge may appoint any competent person to survey the ship and report thereon to the Court.

Act VII of
1880, s. 21.
M. S. A.,
s. 488 (5).

(5) The Judge shall have the same power as the Local Government has to order the ship to be released or finally detained; but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

Act VII of
1880, s. 20.
M. S. A.,
s. 488 (6).

(6) The owner and master of the ship and any person appointed by the owner or master, and also any person appointed by the Local Government, may attend at any inspection or survey made in pursuance of this section.

Act VII of
1880, s. 22.
M. S. A.,
s. 488 (7).

(7) The Judge shall report the proceedings of the Court in each case to the Local Government in the manner prescribed, and each assessor shall either sign such report or report to the Local Government the reasons for his dissent.

Act VII of
1880, s. 28.
Act
XXXVII of
1920, s.
2.
M. S. A.,
s. 489.

270. The Local Government may make rules Power of Local Government to make rules with respect to Court of Survey. to carry into effect the provisions of this Act with respect to a Court of Survey, and, in particular and without prejudice to the generality of the foregoing power, with respect to—

- (a) the procedure before the Court;
- (b) the requiring, on an appeal, of security for costs and damages;
- (c) the amount and application of fees; and
- (d) the ascertainment, in case of dispute, of the proper amount of costs.

Scientific Referees.

Act VII of
1880, s. 24.
M. S. A.,
s. 490.

271. (1) If the Local Government is of opinion that an appeal to a Court of Survey involves a question of construction or design or of scientific difficulty, or important principle, it may refer the matter to such one or more out of a list of scientific referees to be from time to time prepared by the Local Government, as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the Port-officer and the appellant, or, in default of any such agreement, by the Local Government; and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

(2) The Local Government, if the appellant in any such appeal so requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee for referees selected as aforesaid.

(3) The referee or referees shall have the same powers as a Judge of the Court of Survey.

PART VII.

WRECK AND SALVAGE.

Act VII of
1880, s. 71.
M. S. A.,
s. 510.

272. In this Part "wreck" includes the following when found in the sea or any tidal water or on the shores thereof:—

- (a) goods which have been cast into the sea and then sink and remain under water;

(b) goods which have been cast or fall into the sea and remain floating on the surface;

(c) goods which are sunk in the sea, but are attached to a floating object in order that they may be found again;

(d) goods which are thrown away or abandoned; and

(e) a ship abandoned without hope or intention of recovery.

273. (1) The Local Government may, by notification in the local official Gazette, appoint such person as it thinks fit to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned, within such local limits as it may prescribe.

(2) Persons so appointed shall be called receivers of wreck.

274. (1) Any person finding and taking possession of any wreck within any local limits for which a receiver of wreck has been so appointed, or bringing within such limits any wreck which has been found and taken possession of elsewhere, shall, as soon as practicable,—

(a) if he be the owner thereof, give the receiver of wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished;

(b) if he be not the owner of such wreck, deliver the same to the receiver of wreck.

(2) Any person omitting to give notice of the finding of, or to deliver, any wreck to the receiver of wreck as required by sub-section (1) shall be liable to a fine which may extend to one thousand rupees, and, in the case of omission to deliver any wreck, shall, in addition to such fine, forfeit all claim to salvage, and pay to the owner of such wreck if the same is claimed, or if the same is unclaimed to the Government, a penalty not exceeding twice the value of such wreck.

275. (1) Whenever any wreck is found by the receiver of wreck or has been delivered to him in accordance with the provisions of this Part by any person, not being the owner thereof, the Government or such other person so delivering such wreck, as the case may be, shall be entitled to receive a reasonable sum for salvage, having regard to all the circumstances of the case.

(2) Any dispute arising concerning the amount due under this section shall be determined by a Magistrate upon application to him for that purpose by either of the disputing parties.

276. The receiver of wreck shall, on taking possession of any wreck, publish a notification, in such manner and at such place as the Local Government may prescribe in this behalf, containing a description of the same and the time at which and the place where the same was found.

Act VII of
1880, s. 77,
F. M. S. A.,
s. 521-522.

277. If after the publication of such notification the wreck is unclaimed, or if the person claiming the same fails to pay the amount due for salvage and for charges incurred by the receiver of wreck in respect thereof, the receiver of wreck may sell such wreck by public auction, if of a perishable nature, forthwith, and, if not of a perishable nature, at any period not less than six months after such notification as aforesaid.

Act VII of
1880, s. 78.

278. On the realization of the proceeds of such sale, the amount due for salvage and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the balance shall be paid to the owner of the wreck, or if no such person appear and claim the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same:

Provided that he makes his claim within one year from the date of the sale.

Act VII of
1880, s.
2, amended
by Act VI of
1891, s. 1,
and Act XII
of 1891.

279. Nothing in this Part shall be deemed to—
Savings.

(a) affect the declaration of the twenty-third day of October, 1889, in Schedule IV, between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic, with reference to the disposal of the proceeds of wrecks on their respective coasts, that declaration having been made applicable to India, or

(b) affect section 29 of the Indian Ports Act, 1908, or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

PART VIII.

LEGAL PROCEEDINGS.

Act VII of
1880,
s. 50,
Act V of
1888,
s. 6 (4).
Act VII of
1884,
s. 9 (8) and
37 (8).
Act XLI of
1920,
s. 7.
M. S. A.,
s. 698 (2).

280. The following persons shall be deemed to be public servants within the meaning of the Indian Penal Code, namely:—

- (a) Every surveyor appointed under this Act.
- (b) Every judge, assessor or other person acting under Part VI.
- (c) Every person appointed under this Act to report information as to shipping casualties.
- (d) Every person authorised under this Act to make any investigation under Part VI, and all persons whom he calls to his aid.
- (e) Every person directed to make an investigation into an explosion on a steamship under section 207.
- (f) Every Wireless Telegraphy Inspector appointed under this Act.

Act I of
1859,
s. 112,
Act VII of
1884,
s. 38.
Act X of
1887,
s. 5 (7) and
6 (1).

281. No Magistrate shall try any offence against this Act or any rule made thereunder unless he is a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the first class.

282. Any person committing any offence against this Act or any rule made thereunder, may be tried for the offence in any place in which he may be found or which the Local Government may, by notification in the local official Gazette, direct in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

Act VII of
1880,
s. 84.
Act VII of
1884,
s. 39.
Act X of
1887,
s. 47.
Act XIV of
1895,
s. 52.
Cf. M. S. A.
s. 684.

283. (1) Whenever in the course of any legal proceeding under this Act received in evidence instituted at any place in British India before any Court or Magistrate, or before any person authorised by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject-matter, and the defendant or the person accused (as the case may be) after being allowed a reasonable opportunity for so doing, does not produce the witness before the Court, Magistrate or person so authorised, any deposition previously made by the witness in relation to the same subject-matter before any Court, Justice or Magistrate in His Majesty's dominions (including all parts of British India other than those subject to the same Local Government as the place where the proceeding is instituted), or before any British consular officer, if elsewhere, shall be admissible in evidence—

- (a) if the deposition is authenticated by the signature of the presiding officer of the Court or of the Justice, Magistrate or consular officer before whom it is made;
- (b) if the defendant or the person accused had an opportunity by himself or his agent of cross-examining the witness;
- (c) if the proceeding is criminal, on proof that the deposition was made in the presence of the person accused.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and a certificate by such person that the defendant or the person accused had an opportunity of cross-examining the witness, and that the deposition, if made in a criminal proceeding, was made in the presence of the person accused, shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.

284. (1) Where under this Act a ship is authorised or ordered to be detained, any commissioned officer on full pay in the Naval or Military service of His Majesty, any commander or first officer in the Royal Indian Marine Service, or any port officer, harbour master, conservator of a port, or officer of Customs may detain the ship.

(2) If any ship after detention, or after service on the master of any notice of, or order for, such detention, proceeds to sea before she is released by competent authority, the master of the ship shall be liable to a fine which may extend to one thousand rupees.

Act VII of
1880,
s. 45.
M. S. A.,
s. 692.

Act VII of
1880, s. 47.

(3) When a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any person authorised under this Act to detain or survey such ship, the owner and master of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea, and shall also each be liable to a fine which may extend to one thousand rupees.

(4) When any owner or master is convicted of an offence under sub-section (3), the convicting Magistrate may inquire into and determine the amount payable on account of expenses by such owner or master under that sub-section, and may direct that the same shall be recovered from him in the manner provided for the recovery of fines.

Act I of
1859, s. 58.

285. When an order under this Act for the payment of any wages or other money is made by a shipping-master or a Magistrate and the money is not paid at the time or in the manner directed, the sum mentioned in the order with such further sum as may be thereby awarded for costs, may be levied by distress and sale of the moveable property of the person directed to pay the same under a warrant to be issued for that purpose by a Magistrate.

Act I of
1859, s. 118.
Act VII of
1884, s. 40.
Act X of
1887, s. 46
(2).
Act XIV of
1895,
s. 51 (2).
M. S. A.,
s. 698.

286. Where any Court or Magistrate has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then if the person so directed to pay the same is the master or owner of a ship, and the same is not paid at the time or in the manner directed by the order, the Court or Magistrate may, in addition to any other power it or he may have for the purpose of compelling payment by warrant, direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

Act VII of
1880,
ss. 51 and 52.
M. S. A.,
s. 696.

287. Where for the purposes of this Act any document is to be served on any person, that document may be served—

- (a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode; and
- (b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship, with the person being or appearing to be in command or charge of the ship; and
- (c) if the document is to be served on the master of a ship, where there is no master and the ship is in British India, on the managing owner of the ship, or, if there is no managing owner, on some agent of the owner residing in British India, or, where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

Act X of
1887, s. 49.
Act XIV of
1895,
s. 54.
M. S. A.,
s. 699 (1).

288. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained

by the act or default in respect of which the fine is imposed or in or towards payment of the expenses of the prosecution.

PART IX.

SUPPLEMENTAL.

289. (1) Where a shipping-master has reasons to suspect that the provisions of this Act are not complied with, that officer may—

- (a) enter on board any British ship, and
- (b) muster and examine the crew.

(2) If any person obstructs any shipping master in the execution of his duty under this section, he shall be liable to a fine which may extend to one hundred rupees.

Ship Surveyors.

290. The Local Government may appoint competent persons for the purpose of examining the qualifications of persons desirous of practising the profession of a ship surveyor at any port in the territories administered by such Government, and, subject to the control of the Governor General in Council, make rules—

- (a) for the conduct of such examinations and the qualifications to be required,
- (b) for the grant of certificates to qualified persons,
- (c) for the fees to be paid for such examinations and certificates,
- (d) for holding inquiries into charges of incompetency and misconduct on the part of holders of such certificates, and
- (e) for the suspension and cancellation of such certificates.

291. No person shall, in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section 290 exercise such profession in such port unless he holds a certificate granted under that section:

Provided that nothing herein contained shall prevent any person employed by Lloyd's Register of British and Foreign shipping or Bureau Veritas from discharging any of the duties of such employment, or apply to any person specially exempted by the Local Government from the operation of this section.

292. Any person exercising the profession of a ship surveyor in contravention of the provisions of section 291 shall be liable to a fine not exceeding one thousand rupees, and shall be incapable of maintaining any suit for any fee or reward for anything done by him.

Act VII of
1880, s. 49.

293. Any person appointed or authorised under this Act to survey a ship may, in the execution of his duties, go on board the ship and inspect the same and every part thereof, and the machinery, equipments and cargo, and may require the unloading or removal of any cargo, ballast or tackle.

Act VII of
1880, ss. 23,
40, 67 and
68.

294. All rules made under this Act shall be published in the Gazette of India or the local official Gazette, as the case may be, and on such publication shall have effect as if enacted in this Act.

Act VII of
1884, s. 42,
Act X of
1887, s. 58
(2) and (4).
Cf. Act I of
1887, s. 6.

Act XL of
1920, s. 8.

295. No suit or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

296. (1) The enactments mentioned in Schedule V are hereby repealed to the extent specified in the fourth column thereof.

(2) Any body constituted, and any office established under any enactment hereby repealed shall continue and be deemed to have been constituted, or established, as the case may be, under this Act.

(3) The mention of particular matter in this section shall not be held to prejudice or affect the general application of the provisions of the General Clauses Act, 1897, with regard to the effect of repeals.

X of 1907.

SCHEDULE I.

(See section 9.)

TABLE A.

Fees to be charged for matters transacted at Shipping Offices.

1. Engagement or discharge of crews :—

		Rs.	A.	P.
In ships under 100 tons	.	3	0	0
From 100 to 200 "	.	7	0	0
200 to 300 "	.	10	0	0
300 to 400 "	.	12	8	0
400 to 500 "	.	15	0	0
500 to 600 "	.	17	8	0
600 to 700 "	.	20	0	0
700 to 800 "	.	22	8	0
800 to 900 "	.	25	0	0
900 to 1,000 "	.	27	8	0
above 1,000 "	.	30	0	0

Act I of
1859, Tables
A & B.

and so on for ships of larger tonnage, adding for every one hundred tons above one thousand, two rupees and eight annas.

2. Engagement or discharge of seamen, separately—one rupee for each seaman.

TABLE B.

Sums to be deducted from Wages by way of Partial Repayment of Fees in Table A.

Rs. A P.

1. In respect of engagements and discharges of crews, upon each engagement and each discharge—

From wages of any mate, purser, engineer, surgeon, carpenter or steward 0 12 0

From wages of all others except apprentices 0 8 0

2. In respect of engagements and discharges of seamen, separately, upon each engagement and each discharge 0 8 0

SCHEDULE II.

(See section 131.)

Rates of Fees payable in respect of Survey of Steam-ships.

	Tons.	Rs.
For steam-ships of less than 200	200	40
" " 200 tons and up to 350	350	50
" " 350 " " " 700	700	60
" " 700 " " " 1,000	1,000	80
" " 1,000 " " " 1,500	1,500	100
" " 1,500 " and upwards	...	120

Act VII of
1884 (amended by
Act III of
1890, s. 23).
Cf. M. S. A.,
Schedule 9.

SCHEDULE III.

(See section 146.)

PART I.

(Applied sections of the Merchant Shipping Act, 1894)

332. If any passenger, whether a cabin or a steerage passenger, is either taken off any ship which is carrying any steerage passenger on a voyage from any part of His Majesty's dominions and is damaged, wrecked, sunk or otherwise destroyed, or if any such passenger is picked up at sea from any boat, raft, or otherwise, it shall be lawful—

- (a) if the port to which such passenger (in this Act referred to as "wrecked passenger" is conveyed is in the United Kingdom, for a Secretary of State; and
- (b) if the port is in a British possession, for the Governor of that possession, or any person authorised by him for the purpose; and
- (c) if the port is elsewhere, for the British Consular Officer there;

to defray all or any part of the expenses thereby incurred.

333. (1) If any passenger, whether a cabin or a steerage passenger from any ship which is carrying any steerage passengers on a voyage from any port in His Majesty's dominions, finds himself, without any neglect or default of his own, at any port outside the British Islands other than the port for which the ship was originally bound, or at which he, or the Board of Trade, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful—

- (a) if the place is in a British possession, for the Governor of that possession, or any person authorised by the Governor for the purpose; and
- (b) if the place is elsewhere, for the British Consular Officer there;

to forward the passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of the passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or convey within six weeks thereafter the passenger to his original destination, and forwards or conveys him accordingly within that period.

(2) A passenger so forwarded by, or by the authority of, a Governor or a British Consular Officer shall not be entitled under this Part of this Act to the return of his passage money, or to any compensation for loss of passage.

334. (1) All expenses incurred under this Part of this Act by, or by the authority of, a Secretary of State, Governor of a British possession, or Consular Officer, in respect of a wrecked passenger, or forwarding of a passenger to his destination, including the cost of maintaining the passenger, until forwarded to his destination, and of all necessary bedding, provisions,

and stores, shall be a joint and several debt to the Crown from the owner, charterer, and master of the ship on board of which the passenger had embarked.

(2) In any proceeding for the recovery of that debt, a certificate purporting to be under the hand of a Secretary of State, Governor, or Consular Officer, and stating the circumstances of the case, and the total amount of the expenses, shall be admissible in evidence in manner provided by this Act, and shall be sufficient evidence of the amount of the expenses, and of the fact that the same were duly incurred, unless the defendant specially pleads and duly proves that the certificate is false and fraudulent, or that the expenses were not duly incurred under this Act.

(3) The sum recovered on account of the expenses shall not exceed twice the total amount of passage money which the owner, charterer, or master of the emigrant ship proves to have been received by him or on his account, or to be due to and recoverable by him or on his account in respect of the whole number of passengers, whether cabin or steerage who embarked in the ship.

335. A policy of assurance effected in respect of any steerage passage or of passage money. compensation money by any person by this Part of this Act made liable, in the events aforesaid, to provide such passage or to pay such money, or in respect of any other risk under this Part of this Act, shall not be invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance."

PART II.

FORM OF GOVERNOR'S OR CONSUL'S CERTIFICATE OF EXPENDITURE IN THE CASE OF PASSENGERS SHIPWRECKED, &c.

(See applied section 334 above.)

I hereby certify that, acting under, and in conformity with, the provisions of Part III of the Indian Merchant Shipping Act, 1922, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores (a), and in forwarding to their destination passengers [including cabin-passengers (b),] who were proceeding from to in the passenger-ship which was wrecked at sea, &c. (c)

(a) *N.B.*—1. If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, alter the certificate to suit the facts of the case.

(b) *N.B.*—2. Omit words in brackets when necessary.

(c) *N.B.*—3 State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly.

And I further certify, for the purposes of Part of the said Act, that the total amount of such expenses is , and that such expenses were duly incurred by me under the said Act. (Given under my hand

this day of , 19 .

{ Governor of, &c. (or, as the case may be)
{ His Britannic Majesty's Consul at .

SCHEDULE IV.

(See section 279.)

Declaration between the Government of the United Kingdom of Great Britain and Ireland and the Government of the French Republic with reference to the disposal of the proceeds of Wrecks on their respective Coasts.

Act VII of 1880, Schedule added by Act VI of 1891, s. 8.

The Government of Her Majesty the Queen of the United Kingdom of Britain and Ireland, Empress of India, and the Government of the French Republic, desiring to regulate by a new Agreement questions relative to the disposal of the proceeds of wrecks on the coasts of the two States, have agreed to replace the Declaration signed at London on the 16th June 1879, by the following arrangements:—

ARTICLE I.

When any ship belonging to the subjects of one of the two Contracting States is wrecked or stranded on the coast of the other, the competent local authorities shall, with as little delay as possible, bring the fact to the knowledge of the Consul General, Consul, Vice-Consul or Consular Agent nearest to the spot where the wreck or stranding has taken place.

ARTICLE II.

All operations relative to the salvage of British ships which may be wrecked or stranded on the coasts of France shall be directed by the Consuls General, Consuls, Vice-Consuls or Consular Agents of Great Britain, and reciprocally the French Consuls General, Consuls, Vice-Consuls and Consular Agents shall direct all operations relative to the salvage of ships of their nation wrecked or stranded on the coasts of Great Britain.

ARTICLE III.

If the owners of the ship and cargo, or their duly authorised representatives, shall be present and shall claim it, the Consuls General, Consuls, Vice-Consuls and Consular Agents shall hand over to them the conduct of the salvage operations after requiring the deposit of the ship's papers, as well as the reimbursement of the expenses already defrayed, and a sufficient guarantee for those incurred before the operations were handed over, and which may not have been already settled.

ARTICLE IV.

The intervention of the local authorities shall only take place in the two countries for the purpose of assisting the Consular authority, of maintaining order, of securing the interests of the salvors if they are strangers to the ship-wrecked crews, and of assuring the due execution of the arrangements to be carried out for the entry and departure of the merchandise saved.

In the absence, and until the arrival, of the Consuls General, Consuls, Vice-Consuls or Consular Agents, the local authorities shall, moreover, take all necessary measures for the protection of

the persons and for the preservation of the articles which shall have been saved from the wreck.

This intervention shall not give rise to any charges, with the exception of those which the salvage operations and the protection of the articles saved shall have rendered necessary, and those to which national ships would, under similar circumstances, be liable. These charges shall be paid according to the circumstances of the case, either by the Agents of the Consular service, or by their owners or their proxies.

In case absence, sickness or any other cause should prevent the Agents of the Consular service from seeing to the operations and the management of the salvage, the local authorities who may be charged with the operations and management in question shall be bound to remit to the aforesaid Agents the ship's papers and the net proceeds of the ship and the cargo.

ARTICLE V.

The merchandise and articles saved shall not be liable to any customs-duties, unless they are intended for home consumption, in which case they shall pay the same duties as they would have had to pay if they had been imported in national vessels.

ARTICLE VI.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of Her Britannic Majesty, excepting to those hereinafter named, that is to say, except to—

India.	Victoria.
The Dominion of Canada.	Queensland.
Newfoundland.	Tasmania.
The Cape.	South Australia.
Natal.	Western Australia.
New South Wales.	New Zealand.

Provided always that the stipulations of the present Declaration shall be made applicable to any of the above-named Colonies or foreign possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's Representative to the French Republic within one year from the date of the signature of the present Declaration.

The stipulations of the present Declaration shall be applicable to all the Colonies and foreign possessions of France.

ARTICLE VII.

The present Declaration shall come into operation three months after the date of its signature, and shall remain in force until the expiration of one year from the day on which either Party may give notice of its intention to terminate it.

In witness whereof, the undersigned Plenipotentiaries, His Excellency the Earl of Lytton, Ambassador of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Excellency M. Eugène Spuller, Minister for Foreign Affairs, have signed the present Declaration, and have affixed thereto their seals.

Done at Paris, this twenty-third day of October, 1880.

(L. S.) LYTTON.

(L. S.) E. SPULLER.

SCHEDULE V.

(See section 296.)

ENACTMENTS REPEALED.

1	2	3	4	1	2	3	4
Year.	Number.	Subject or title.	Extent of repeal.	Year.	Number.	Subject or title.	Extent of repeal.
1850	XIX	The Apprentices Act, 1850.	Sections 5 and 7 so far as they have not been repealed. In section 10 the words "or, if the apprentice is bound to the sea service, in the office of the person appointed under Act X, 1841, to make registry of ships at the port where the apprentice is to begin his service" and the words "or registering officer." In sections 11, 12, and 20 the words "or registering officer".	1897	XIV	The Indian Short Titles Act, 1897.	So much of the Schedule as relates to the Indian Merchant Shipping Act, 1850, the Indian Steamships Law Amendment Act, 1890, and the Indian Merchant Shipping Law Amendment Act, 1891.
1859	I	The Indian Merchant Shipping Act, 1850.	The whole so far as it has not been repealed.	1900	VI	The Lower Burma Courts Act, 1900.	So much of the Second Schedule as relates to the Indian Merchant Shipping Act, 1850.
1874	XV	The Laws Local Extent Act, 1874.	So much of the First Schedule as relates to Act I of 1859.	1902	III	The Indian Steamships (Amending and Validation) Act, 1902.	Section 3.
1876	XIII	The Indian Merchant Seamen's Act, 1876.	The whole.	1906	VI	The Indian Merchant Shipping (Amendment) Act, 1906.	The whole.
1880	VII	The Indian Merchant Shipping Act, 1880.	The whole so far as it has not been repealed.	1908	XVIII	The Indian Merchant Shipping (Amendment) Act, 1908.	The whole.
1883	V	The Indian Merchant Shipping Act, 1883.	The whole except section 38.	1909	I	The Indian Steamships Law Amendment Act, 1909.	The whole so far as it has not been repealed.
1884	VII	The Indian Steamships Act, 1884.	The whole so far as it has not been repealed.	1914	IV	The Decentralisation Act, 1914.	So much of the Schedule, Part I, as relates to the Pilgrim Ships Act, 1895.
1887	X	The Native Passenger Ships Act, 1887.	The whole.	1914	X	The Repealing and Amending Act, 1914.	So much of the Second Schedule as relates to the Indian Merchant Shipping Act, 1850, the Indian Merchant Seamen's Act, 1876, the Indian Steamships Act, 1884, and the Dock and Load Lines Act, 1891.
1890	III	The Indian Steamships Law Amendment Act, 1890.	The whole so far as it has not been repealed.	1917	I	The Inland Steam-Vessels Act, 1917.	So much of Schedule II as relates to the Inland Steamships Law Amendment Act, 1890, and the Indian Steamships Law Amendment Act, 1909.
1891	VI	The Indian Merchant Shipping Law Amendment Act, 1891.	The whole so far as it has not been repealed.	1919	XXV	The Indian Merchant Shipping Law (Amendment) Act, 1919.	The whole.
1891	XII	The Amending Act, 1891.	So much of the Second Schedule as relates to the Indian Merchant Seamen's Act, 1876, the Indian Merchant Shipping Act, 1880, the Indian Merchant Shipping Act, 1883, and the Indian Steamships Law Amendment Act, 1890.	1920	I	The Indian Steamships (Amendment) Act, 1920.	The whole.
1891	XVII	The Deck and Load Lines Act, 1891.	The whole.	1920	XXXVIII	The Devolution Act, 1920.	So much of the First Schedule as relates to the Indian Merchant Shipping Act, 1880, the Indian Steamships Act, 1884, and the Native Passenger Ships Act, 1887.
1895	XIV	The Pilgrim Ships Act, 1895.	The whole.	1920	XLI	The Indian Wireless Telegraphy (Shipping) Act, 1920.	The whole.

TABLES SHOWING DISTRIBUTION IN
THE BILL OF SECTIONS OF ACTS
REPEALED BY THE BILL.

Section of Act.	Clause of Bill.	REMARKS.
ACT I OF 1859.		
1 (repealed.)	...	
2	6	
3	6 (3)	
4	8	
5	9 (1) (2)	
6	9 (3)	
7	10	
8	7	
9	15-18	
10	15-21	
11	16	
12	17	
13	11 (1), 12	
14	14 (2)	
15	18-19	
16	20	
17 (repealed.)	...	
18	24	
19	25	
20	26	
21 (repealed.)	...	
22	30 (a)—(d)	
23	30 (1) (a), 30 (2)	
24	30 (1) (g) and (h)	
24A	31	
25	9 (4)	
26	32 (b)	
27	32 (a)	
28	27 (2)	
29	38	
30	289	
31	22-34	
32	22, 35, 32 (d)	
33	37	
34	33	
35	61	
36	52 (1)	
37	52 (2)	
38	58	
39	54	
40	54	
41	42, 43	
42	44, 45	
43	43	
44	49	
45	51	
46	48	
47	55	
48	56	
49	57 (1)	
50	57 (2)	
51	58	
52	59	
53	47	
54	51	
55	68	
56	285	
57	64	
58	65	
59	63	
60	67	
61	68	
62	69	
63	70	
64	85 (1) to (4)	
65	85 (5)	
66	86	
67	87	
68	88	
69	89	
70	90	

Section of Act.	Clause of Bill.	REMARKS.
71	91	
72	92	
73	93	
74	94	
75	95	
76	96	
77	98	
78	97	
79	99	
80	258	
81 (repealed)	...	
82 (repealed)	...	
83	100, 103	
84	105	
85	115 (2)	
86	101	
87	102	
88	101 (5)	
89	107	
90	108	
91	60	
92	111	
93	109	
94	110	
95	104	
96	105, 112	
97	113, 114	
98	115 (1)	
99	118	
100 (repealed)	...	
101 (repealed)	...	
102 (repealed)	...	
103	120 (1) (2)	
104	120 (3)	
105	121	
106	120 (4)	
107	122	
108	120 (5)	
109	123	
110	124	
111	280	
112	...	Covered by existing law.
113	286	
114	4	
115	38	
116	38 (4)	
117	39	
118 (Definition of master).	2	
ACT XIII OF 1876.		
1	...	
2	2	
3	71	
4	119	
5	40	
6	106	
7	117	
8	116	
9	90	
10	51	
ACT VII OF 1880.		
1	...	
2	2	
3	227	
4	2, 217 (4), 280, 281 (1), 232 (1)	
5	229	
6	231	
7	232 (1)	
8	232 (1) (c) & (d)	
9	232 (e)	
10	232 (1) (f)	
11	214, 232 (5)	
12	232 (2)	
13	268 (1)	

Section of Act.	Clause of Bill.	REMARKS.	Section of Act.	Clause of Bill.	REMARKS.
14	268 (2)		8	249	
15	268 (3), (4)		9	250	
16	269 (1)		10	251	
17	269 (2)		11	252	
18	269 (3)		12	253	
19	269 (4)		13	254	
20	269 (5)		14	255	
21	269 (6)		15	256	
22	269 (7)		16	257	
23	270		17	258	
24	271 (1)		18	259	
25	271 (2)		19	260	
26	271 (3)		20	261	
27	272		21	262	
28	273		22	263	
29	274		23	264	
30	275		24	14(2), 265	
31	276		24A	266	
32	225, 226		25	267	Drafting section,
33	217		26	268	
34	218		27	28 (1)	
35	220, (2)(3) (4)		28	28 (2) (f), 28	
36	221 (1) (5)			(4)	
37	221 (2)		29	28 (2) (h)	
38		Drafting section not necessary.	30	29	
39	218 (3), 223		31	Repealed	
40	224		32	72 (1) (2)	
41	222 (1)		33	72 (3)	
42	222 (2)		34	21	
43	218 (4)		35	16	
44	232 (1) (g)		36	99	
45	284 (1)		37	5 (1)	Not repealed by Bill.
46	284 (2)		38		
47	284 (3) (4)				
48		Drafting section not necessary.			
49	293				
50	280				
51	287				
52	287				
53	289				
54	73, 74 (2)				
55	74				
56	75 (1)				
57	75 (2)				
58	76				
59	77 (1)				
60	77 (2)				
61	78				
62	79				
63	80				
64	81				
65	82				
66	83				
67	84				
68	290				
69	291				
70	292				
71	272				
72	279				
73	278				
74	274 (1)				
75	275				
76	276				
77	277				
78	278				
79	271 (2)				
80	4				
81	214				
82	215				
83	216				
84	282				
85	217, 218, 227, 238				
	Act V of 1883.				
1	...		1	...	
2	...		2	...	
3	2		3	2	
4	258		4	125 (1)	
5	4		5	125 (2)	
6	246, 247		6	Repealed.	
7	249		7	127	
			8	128	
			9	129	
			10	130	
			10A	131	
			11	132	
			12	133	
			13	134	
			14	135	
			15	136	
			16	137	
			17	138	
			18	139	
			19	140	
			20	141	
			21	142	
			22	143	
			23	144	
			24	145	
			25	146	
			26	147	
			27	148	
			28	149	
			29	150	
			30	151	
			31	152	
			32	153	
			33	154	
			34	155	
			35	156	
			36	157	
			37	158	
			38	159	
			39	160	
			40	161	
			41	162	
			42	163	

Section of Act.	Clause of Bill.	REMARKS.	Section of Act.	Clause of Bill.	REMARKS.
ACT XII OF 1885.			20	167	
1	...		21	145.	
2	...	Repealed.	22	Not reproduced as unnecessary.	
3-7	146 & Schedule II		ACT VI OF 1891.		
Schedule. }			1	17	
ACT X OF 1887.			2	81	
1	...		3	82 (d)	
2	147		4	38 (3)	
3	...	Commencement.	5	2 (3)	
4	...	Repeal section.	6	2 (2)	
5	149, 174		7	279	
6	150		8	274	
7	151		9	Schedule IV.	
8	152		10	245 (2), 244 (2)	
9	153		11	246	
10	154		12	247	
11	155		13	Repealed.	
12	157		14	262	
13	158			264	
14	159		ACT XVII OF 1891.		
15	160		1	...	
16	161		2	228	
17	166		3	217 (4)	
18	176		4	217-222	
19	177		5	Repealed.	
20	178		ACT XIV OF 1895.		
21	179		1	...	
22	180		2	147	
23	181		3	...	Commencement section.
24	182		4	Not necessary.	
25	178 (1)		5	149	
26	184		6	149	
27	185		7	Explanation 2.	
28	186		8	150	
29	187		9	151	
30	188		10	152	
31	189		11	153	
32	189		12	154	
33	189		13	155	
34	189		14	157	
35	189		15	158	
36	189		16	159	
37	187		17	160	
38	190		18	161	
39	168		19	166	
40	169		20	193	
41	183 (2)		21	194	
42	184 (2)		22	195	
43	185 (2)		23	196	
44	178 (3), 186 (3)		24	197	
45	188 (3)		25	198	
46	286		26	199	
47	282		27	200 (1)	
48	172		28	201 (1)	
49	288		29	202	
50	288		30	203 (1)	
51	170		31	204	
52	171		32	205	
53	191		33	206	
54	178		34	207	
55	175		35	208	
56	192		36	209	
57	148		37	210	
ACT III OF 1890.			38	192	
1-14	Repealed.		39	193	
15	191		40	194	
16	Repealed.		41	211	
17	(1) Repealed.		42	165	
	(2) 166 (4)		43	166	
18	Repealed.		44	167	
19	141			168	

Section of Act	Clause of Bill.	REMARKS.	Section of Act	Clause of Bill.	REMARKS.
45	169				
46	200 (2)				ACT I OF 1909.
47	201 (2)				
48	202 (2)				
49	203 (2), 206 (3)		1	...	
50	212		2	Repealed.	
51	286		3	125	
52	282		4	141	
53	172		5	8	
54	288				
55	293				ACT XXV OF 1919.
56	170				
57	171		1	...	
58	218		2	4	
59	Spent.		3	4	
60	173				
		ACT III OF 1902.			
1	...				ACT I OF 1920.
2	Repealed.		1	...	
3	126			a repealing	
4	Spent.		3	section.	
		ACT VI OF 1906.		143	
1	...				ACT XLI OF 1920.
2	30 (2)				
3	31				
		ACT XVIII OF 1908.			
1	...		1	240	
2	228		2	241	
3	218		3	242	
4	216, 217, 224, 225, 230		4	243	
			5	244	
			6	245	
			7	280	
			8	293	

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to consolidate as far as may be the Indian Acts relating to merchant shipping. The first Act now on the Indian Statute Book dealing with that subject was passed in 1838 and the last in 1920, and during this period of nearly a century, a large number of Acts have been from time to time enacted by the Legislature. The result is that the law has become increasingly difficult to refer to and the case for consolidation is very strong.

Attempts have been made on several occasions in the past to remedy this state of affairs. In 1867, again in 1882, and more particularly in the years 1893 to 1896, Bills attempting to effect a complete or partial consolidation were brought before the Legislature. These attempts failed for a variety of causes with which it is unnecessary to enter in detail, but a possible cause common to all was the fact that consolidation and amendment were undertaken at the same time. If, as seems probable, the effects to consolidate and amend at the same time were contributory to the failures in the past, such a course is not less undesirable in 1922, for the volume of the law to be dealt with is far greater and the legislative machinery is far more complex. The present Bill, therefore, does not attempt to go beyond consolidation and that not even of the whole of the law which is not feasible for reasons which will be dealt with later.

Any consolidating measure must, however, necessarily involve a consideration of the English Statute Law on the subject, for by the enactment of the Imperial Statute, the great Merchant Shipping Act of 1894, the powers of the Indian Legislature were both curtailed and extended. The Indian law has therefore to be brought into legal harmony with that enactment and its amending Acts. Save for this purpose and in the few unimportant respects, mostly necessitated by the lapse of time, which are referred to in the Notes on Clauses, no change of substance has been made intentionally.

2. The Bill is an imperfect consolidation of the law in one important respect. It leaves untouched the Indian law relating to the registration of ships. That law is contained in Act XIX of 1838 and Act X of 1841 and its amending Acts. The latter Acts were passed in virtue of Acts of Parliament which have been repealed, and though their provisions are saved there is no power to re-enact them even if it were desirable to do so. Whether they can now be repealed and the matter left to be dealt with by Part I of the English Merchant Shipping Act, 1894, which extends throughout the British Empire, or whether special provisions must be maintained to meet the case of country craft and other classes of shipping provided for by these Acts are matters which are beyond the scope of a consolidating Bill prepared under the auspices of the body which stands sponsor for the present measure.

3. The Bill has been prepared and considered by the Statute Law Revision Committee and they consider it a useful step towards the clarification of the Statute Book.

They do not, however, recommend it should be passed into law in its present shape. It is abundantly evident that numerous amendments of the law are called for, some of which they have indicated in the Notes on Clauses.

They would recommend that the passage of the present Bill should be suspended at some convenient stage in its consideration by the Indian Legislature, and that an amending Bill drawn to harmonize with this consolidating measure should, when all controversial points have been decided, be referred for amalgamation with the present Bill.

A. P. MUDDIMAN,

President, Statute Law Revision Committee.

The 6th February, 1922.

Notes on Clauses.

Clause 2.—The definitions of "effects" and "wages" are new. They have been inserted for purely drafting purposes, in order to shorten the language of the Bill and follow the definitions in the Merchant Shipping Act, 1894, section 742.

Clause 4.—This clause does not exactly reproduce the existing law. Section 114 of the Indian Merchant Shipping Act, 1859, section 5 of the Indian Merchant Shipping Act, 1883, and section 5 (c) of the Indian Steam-ships Act, 1884, except from the operation of the provisions of those Acts, respectively, ships "belonging to His Majesty or the Government, etc." On the other hand, sections 3 and 80 of the Indian Merchant Shipping Act, 1880, except ships "belonging to, or hired by, Her Majesty or the Secretary of State for India in Council"; section 2 of the Native Passenger Ships Act, 1887, excepts ships of the Royal Navy and Indian Marine and "any other ship for the time being in the service of Her Majesty"; and the Indian Wireless Telegraphy (Shipping) Act, 1920, does not exempt any ships at all. As the exact amendment of the various provisions here noticed has, in the past, frequently been questioned, and as the Acts of 1859 and 1883 were amended in this respect in 1919, it seems possible that the provisions, as consolidated in the draft Bill, will be suitable and sufficient.

The Merchant Shipping Act, 1894, confers a special exemption in regard to ships belonging to a foreign State. The exemption in the English law, and the same is also probably true as regards India, rests on the general exemption consequent on the absolute independence of every sovereign authority under the international comity which induces every sovereign State to respect the independence and dignity of every other sovereign State as a consequence of which public property which is destined for the public use of a State is exempt from territorial jurisdiction. See the *Parlement Belles* (1890), 5 P. D. 197 C. A. As, however, the Indian Acts contain various exemptions, this clause reproduces in a generalised form the exemption of public ships of foreign States. There is a slight alteration in the law to which attention is drawn, in that Act X of 1887, section 2 (2) (iii) confines the exemption to ships of war.

Clause 5 (1).—Section 262 of the Merchant Shipping Act, 1894, exempts pleasure yachts from certain requirements of the corresponding Part, and it seems probable that the same exemption should find place in the Indian law. The matter is one for an amending Bill.

Clause 5 (2).—This gives the widest scope possible to our Indian legislation having regard to section 261 of the Merchant Shipping Act, 1894. This part of the Bill fills up the lacunae which the section in question leaves in the application of Part II of the Imperial Act. Sub-clause (3) of the same clause gives the widest application to the Part which is possible under the Imperial Law and refers in support of this to section 264 of the Merchant Shipping Act, 1894.

Clause 6.—The terms “shipping-master” and “shipping office” were originally used in the English Merchant Shipping law, but by section 15 of 25 and 26 Vict., C. 63, the phrases “Superintendent of a mercantile marine office” and “Mercantile marine office” were respectively substituted. From the drafting point of view there is no particular advantage in making the substitution in the Bill, and it is possible that, for administrative reasons, it may be undesirable to change well-known titles. Under section 742 of the Merchant Shipping Act, 1894, the Superintendent, so far as regards a British possession, includes any shipping-master or other officer discharging in that possession the duties of the Superintendent, so no difficulty arises in that connection from the retention of the word “shipping-master”. If for any administrative reasons the substitution is considered desirable, it is a matter which might well be dealt with by an amending Act.

Clause 9.—This clause reproduces the existing law. It may be pointed out that the fees payable upon engagements and discharges of seamen have been abolished in the United Kingdom and by the Statute Law Revision Act, 55 and 56 Vict., C. 19, the law which authorises the levy of those fees was repealed.

Clause 11.—Clause 11 has been drawn in the somewhat awkward form in which it appears in the Bill, as, though it reproduces the existing law, it seems probable that an amendment will be called for. Under the English law, section 92 of the Merchant Shipping Act, all ships to which that section applies are required to have at least a certificated master.

Clause 11 (2).—The draft Bill makes a slight change here in the existing law, as a steam-ship proceeding to the Straits Settlements would require engineer officers only on the scale required for home-trade ships; whereas, under section 31 of the Indian Steam-ships Act, 1884, she is treated in this respect as a foreign-going ship. It is to be observed that the reference to the Straits Settlements was included in the definition of a “foreign-going ship” contained in section 118 of the Merchant Shipping Act, 1850, by the Indian Merchant Shipping Law Amendment Act, 1891, and that a similar amendment was not made in section 30 (1) of the Indian Steam-ships Act, 1884. Attention is drawn to the point in case the matter may be one of practical importance.

Clause 11 (3).—The provision in Act VII of 1884, section 32, which is here re-enacted is re-enacted in an absolute form instead of depending as it does in the existing law on an order of the Local Government. This clause, it is thought, is justified as it is understood that all maritime Local Governments have made the order and the requirement is in force and is also in accordance with the trend of modern legislation.

Clause 16.—The examiners are required to report on the sobriety, experience and ability of applicants for certificates as masters and mates under the existing Indian law. The clause as drawn extends this requirement to the case of engineer certificates, and thus makes a small alteration in the law. There seems no reason why the law should not be assimilated into the English law, and the fact that the requirement does not exist would appear to be mainly due to the different periods of time at which the Acts here consolidated were enacted. As, however, a small alteration in the law is involved attention is drawn to this clause.

Clause 17.—This clause omits those portions of section 12 of Act I of 1859 which appear to be clearly spent. It further substitutes what are understood to be the modern designations of the Officers of the Naval or Royal Indian Marine officers referred to in the existing law. The Committee, however, are not in possession of sufficient information on the subject to say whether the designations employed are entirely accurate, and attention is drawn to this clause from that point of view.

Clause 22.—Following the drafting of the Merchant Shipping Act, 1894, the provisions of the law relating to the production of certificates of competency to the shipping-master are separated from those relating to the production of the agreement with the crew, which will be found in clause 34. This separation makes the drafting clearer and is necessitated by the re-arrangement of the order of the provisions incorporated in the Bill.

Clause 23.—The provisions of the Apprentices Act, 1850 (XIX of 1850), relating to apprentices to the sea service have been reproduced in the Bill, and the references in the Apprentices Act have accordingly been repealed. It is thought that these provisions more appropriately belong to the law relating to Merchant Shipping, especially as they impose duties on shipping-masters. It may be pointed out, however, that these provisions merely refer to ships registered in British India. It has been ascertained by inquiry from those conversant with the facts that apprenticeships are made in British India to owners of ships registered in the United Kingdom. The provisions of sections 108 and 109 of the Merchant Shipping Act, 1894, only apply in the United Kingdom. It seems desirable that they should be re-enacted *mutatis mutandis* in the Indian law, but the matter is one for an amending Bill.

Clause 27.—The requirement regarding agreements with the crew under the existing law, which is here reproduced, only extends to home-trade ships of three hundred tons or upwards. Attention is drawn to the provisions of the Merchant Shipping Act, 1894, section 113, which requires an agreement in the case of all ships, except home-trade ships of less than eighty tons.

Clause 28 (2) (f).—The power to fix the scale of provisions in the case of lascars or other native seamen is by the existing law conferred on the Local Government, with the previous sanction of the Governor General in Council. This provision is reproduced in the Bill, but the re-arrangement of the Bill brings out the inconsistency of this division of the powers when it is considered that the form of agreement is to be sanctioned by the Governor General in Council. There appears to be some case for a consideration of an amendment of the law.

Clause 28 (2) (g).—The reference to short allowance of provisions herein contained reproduces the existing law, but it is understood that in the sanctioned form of agreement this punishment has long been struck out. In these circumstances here also there appears to be a case for the amendment of the law.

Clause 38.—This clause reproduces the existing law, but it is for consideration whether some amendment is not desirable. The clause relates to the engagement of seamen "to proceed to any port out of British India". This would include some home-trade voyages. The question seems to arise, therefore, whether some amendment is not necessary.

Clause 49.—The existing law is reproduced by this clause, but the attention of Government might be called to the provisions of section 137 of the Merchant Shipping Act, 1894, which enables small questions of wages to be dealt with in the case of foreign-going ships without a written agreement. The matter is not, however, one that can be dealt with in a consolidating Bill.

Clause 56.—Sub-clause (2) of this clause is new. It is based on section 56 (g) of the Merchant Shipping Act, 1894. As will be seen it is merely a drafting amendment, and, therefore, may reasonably be inserted in a consolidating Bill. It remedies a defect in the section which is obvious.

Clause 59.—In connection with this clause attention is drawn to the provisions of section 160 of the Merchant Shipping Act, 1894, under which a seaman is not entitled to wages where his illness is only caused by his own default. Apparently under the Indian law a man is entitled to wages in those circumstances.

Clause 63.—This reproduces the existing law, but some amendment is desirable, as the Indian law does not recognise a summary suit before a Magistrate.

Clause 65.—Section 167 (2) of the Merchant Shipping Act, 1894, gives the master and the persons lawfully acting, owing to his illness, for the master similar rights in respect of lawful disbursements. This is a provision which might well find place in an amending Bill.

Clause 75 (1) (c).—The provision here reproduced is that contained in section 56 (c) of Act VII of 1850. It seems somewhat anomalous that the control over the local authority which is appointed by the Local Government [clause 74 (2)], should be vested in the Governor General in Council.

Clause 98.—This clause reproduces the existing law, and follows the Merchant Shipping Act, 1854, which only applies to ships before arrival in dock or the place of discharge. A substantial amendment is necessary if the Indian law is to be brought into harmony with the English law contained in section 218 of the Merchant Shipping Act, 1894.

Clause 147.—Under section 368 of the Merchant Shipping Act, 1894, the provisions of Part III of that Act (other than the provisions relating to passenger steamers only) do not apply to British India, but by sub-section (2) of that section, the Governor General in Council is, by Act, allowed to declare that all or any provisions of Part III shall apply to the carriage of steerage passengers upon any voyage from any specified port whatsoever. This section in the Merchant Shipping Act, 1894, is based on section 99 of 18 and 19 Vict.,

C. 119 (the Passengers' Act, 1855). Under the powers conferred by that Act, the Indian Sea Passengers' Act, 1855, was passed. The Passengers' Act dealt with the carriage of passengers of all classes. Section 368 referred to above only deals with the carriage of steerage passengers. The provisions of the Indian Sea Passengers' Act were, in effect, made applicable to certain voyages specified in section 3 of that Act, and to those voyages the provisions of sections 273 and 274 and Schedule VII of the Passengers' Act were applied. The corresponding provisions of the Merchant Shipping Act of 1894 are the provisions in case of wreck contained in sections 332, 333, 334 and 335 of the Act of 1894, and these provisions have been incorporated in a Schedule to the Bill.

Section 363 (3) provides that an Act passed in virtue of the power conferred by that section shall not have effect under the section unless it is reserved for the signification of His Majesty's pleasure thereon, or contains a suspending clause providing that the Act shall not come into operation until His Majesty's pleasure thereon has been publicly signified in British India. Section 368 does not contain a provision with reference to Acts passed under the power reproduced thereby similar to that in section 735, sub-section (2) of the Merchant Shipping Act, 1894. It will, therefore, appear to be necessary to insert a clause making the repeal of the existing law take effect from the date on which His Majesty may signify his pleasure.

Part IV.—The clauses of the Bill in this Part are a consolidation of the Native Passenger Ships Act, 1887 (X of 1887), and the Pilgrim Ships Act, 1895 (XIV of 1895). Though possibly for some reasons it might be more convenient to keep these Acts separate, it is impossible to do so in a consolidation Bill, as a large number of the clauses of the two Acts are *verbatim* reproductions. The plan adopted has been to state the general provisions which apply to both classes of ships, and then to proceed to deal with the special rules which relate only to the particular class in question.

Clause 149 (2).—It has been found desirable to define "native passenger ship", and the reference in the provision is to clause 147 (2).

Clause 218.—In this clause and in the clause following, clause 219, regarding the marking of load-lines, the provisions of the existing law have been consolidated so as to bring together, subject to the exceptions provided by the Part, the provisions of the law relating both to British and foreign ships.

Clause 228.—This clause contains the saving for foreign ships contained in Act VII of 1880, and the Bill as drawn in this form makes it possible to summarise the provisions relating to overloading and improper loading and the marking of the deck of load-lines covering the cases of all classes of vessels.

Clause 238.—This clause contains the special provisions, in the application to foreign ships, of the provisions as to detention which are contained in section 85 of Act VII of 1880.

Clauses 240—245.—These clauses consolidate the law in regard to the provision of wireless telegraphy on board ships, which seem to fall appropriately under this part of the Bill.

Part VI.—This Part separates from the main body of the Act the provisions of the law in regard to shipping inquiries in Courts. In this respect it follows the Merchant Shipping Act, 1894, and the arrangement is probably convenient.

Clause 251.—The power to legislate to give power to hold an inquiry in the case of a master, mate or engineer holding a certificate under the Merchant Shipping Act, 1894, is restricted by section 478 of the Merchant Shipping Act, 1894, to the cases mentioned in clause (b) of sub-clause (1) of that clause. It seems desirable that this limitation should appear on the face of the Act, and accordingly it has been inserted in this clause.

Clause 258.—The power conferred by section 472 of the Merchant Shipping Act, 1894, appears to supersede the power in section 80 of Act I of 1859 as regards Courts having Admiralty jurisdiction, and the reference in this clause is intended to draw attention to the existence of that power.

Clause 265.—This clause gives power to Courts, in ports where there is no Colonial Court of the Admiralty, to remove a master.

Clause 280.—This clause brings together the officers or other persons who are by various sections of the Act consolidated and declared to be public servants within the meaning of the Indian Penal Code (XLV of 1860). This consolidates the provisions as to the place of trial which are scattered over the various Acts.

Clause 281.—This consolidates, in as general a form as possible, the scattered provisions as to the depositions of witnesses who cannot be produced.

Section 112 of the Merchant Shipping Act, 1859, does not confine the power to try cases thereunder to first class Magistrates, but under the existing law it is only Magistrates of the first class who can try cases summarily. In the Act of 1880 there is no special provision as to the class of Magistrate who may try offences except section 54, which provides that Chapter III should be taken as part of the Indian Merchant Shipping Act, 1859, and the same remark applies to the Act of 1883. Section 38 of the Indian Steam-ships Act, 1884, contains the provision which appears in the Bill, whilst the Native Passenger Ships Act, 1887, and the

Pilgrim Ships Act, 1895, confine the power to try cases under those Acts to Magistrates of the first and second classes. The Indian Wireless Telegraphy (Shipping) Act, 1920, imposes no limitation. This clause, therefore, does not exactly reproduce the existing law, but it is suggested that, in a Bill of this kind, it would be difficult, and possibly is not necessary, to specify various offences as triable, respectively, by first and second class Magistrates.

Clause 284.—This places in the appropriate part of the Bill the provisions for enforcing the detention of a ship.

Clause 286.—This consolidates the various provisions scattered through the Act as to the levy of wages, fines, etc., by description of the ship.

Clause 288.—This gives general application to the provisions of two Acts regarding the application of fines imposed under the Act.

Clause 289 (1).—This clause follows the Merchant Shipping Act, 1894, section 723, in that it gives to the shipping-master a power of entry on board British ships in all cases and not only, as in section 30 of the Indian Merchant Shipping Act, 1850, reproduced in clause 41 of the Bill, for the purpose of preventing a seaman from being shipped contrary to the provisions of that Act.

H. MONCRIEFF SMITH,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of State on the 1st March 1922 :—

No. 5 OF 1922.

A Bill to control the possession of minor children by sadhus, fakirs, religious mendicants and certain other persons.

WHEREAS it is expedient to prevent sadhus, fakirs, religious mendicants, and other persons dedicated or professing to be dedicated to religion from improperly adopting children as chelas and taking them away from their parents to be brought up to a life of mendicancy or immorality; It is hereby enacted as follows :—

Chapter I.—Preliminary.

1. This Act shall be called the Registration of Chelas Act, 1922.

Short title and extent.

It shall extend to the whole of British India :

Provided that any Local Government may suspend the operation of section 11 within such local areas and for such periods as it may deem fit, or may by notification in the Local Official Gazette exempt from the operation of this Act any specified classes of sadhus or fakirs whom it may deem fit to so exempt.

2. In this Act, unless the contrary appears from the context—

Definitions.

“Sadhu or fakir” means a person who is or professes to be dedicated to religion or who has adopted begging as a profession.

“Chela” or “murid” means a person associated with himself by a sadhu or fakir for the purpose, real or ostensible, of being trained in religious practices or of being brought up as a beggar.

“Adoption” means the attaching to himself as a chela or murid by a sadhu or fakir of any person.

“Minor” means a person under the age of eighteen years.

Chapter II.—Registration of chelas or murids.

3. Every sadhu or fakir who may wish to adopt as a chela or murid any minor shall present himself together with the minor whom he wishes to adopt and such minor's father

or guardian before the district magistrate, or any other magistrate of the first class within the limits of whose jurisdiction the said minor resides, and shall apply in writing that a record of the proposed adoption be made, and such magistrate, after examining the parties appearing before him and recording such other evidence, if any, as he may consider necessary, shall, if satisfied that the applicant is a member of some recognized religious order in which the practice of adopting minors as chelas or murids is permitted and that the consent of the minor and of his father or guardian is free and voluntary, record the fact of the adoption in a register to be kept for this purpose, and shall give to the said sadhu or fakir a certificate signed by himself in the form prescribed by rules framed under section 14 of this Act.

If the magistrate to whom an application to record an adoption is made is not satisfied as to the particulars hereinbefore mentioned, he shall refuse to record the adoption.

4. If any sadhu or fakir should wish to adopt as a chela or murid any minor whose father or guardian is not discoverable, he shall present himself together with such minor before the magistrate of the district in which such minor resides or is found and apply in writing that a record of the proposed adoption be made, and the said magistrate shall thereupon proceed as nearly as may be in the manner prescribed by the last preceding section :

Provided that the magistrate of the district may refuse registration if he considers that it is not in the interests of the minor, and may deal with him in one or other of the ways provided for by section 10.

5. Every sadhu or fakir who, at the date of the coming into force of this Act, has under his control as a chela or murid any minor shall forthwith present himself together with such minor before the magistrate of the district in which the adoption in fact took place or in which the said sadhu or fakir generally resides, and apply in writing that a record of the

alleged adoption be made, and such magistrate shall thereupon proceed as nearly as may be in the manner prescribed by section 3 or section 4 of this Act.

8. From any order passed under section 3, 4 or 5 recording or refusing to record an adoption an appeal shall lie, if preferred within thirty days from the date of the order, to the District Judge, whose decision thereon shall be final.

7. (1) Every certificate of adoption granted under section 3, 4 or 5 shall be retained by the applicant and must be produced when demanded by any magistrate or by any police officer not below the rank of a sub-inspector.

(2) If a sadhu or fakir, who has obtained a certificate of registration, dies leaving a minor chela or murid, it shall not be lawful for his successor to keep the chela or murid in his custody without obtaining a certificate of registration as provided for in this Act.

Chapter III.—Offences.

8. After the expiry of one year from the date of the coming into force of this Act, any sadhu or fakir, in whose custody any minor not being his natural-born son, may be found, and who cannot produce a certificate of adoption in respect of such minor granted under the provisions of this Act, shall be punishable in respect of the first offence with fine which may extend to fifty rupees, or with simple imprisonment which may extend to one month, or with both, and in respect of any subsequent offence with fine which may extend to one hundred rupees, or with rigorous imprisonment which may extend to three months, or with both.

9. The father of any minor in respect of whom in the circumstances mentioned in the last preceding section no certificate has been granted shall be punishable with fine which may extend to fifty rupees or with simple imprisonment which may extend to one month, unless he can show that the minor has become associated with the sadhu or fakir against his father's wishes and in circumstances beyond his control and that at the time the said minor disappeared from his custody he reported such disappearance to the police or made a complaint to a magistrate.

10. (1) Where any minor is found in the custody of a sadhu or fakir who cannot produce a certificate granted under this Act, any magistrate making an inquiry under section 8 may direct that the minor be restored to his father or guardian, if discoverable, or be made over to any respectable person, of the same religion as the minor, who is willing to take charge of such minor, and may obtain an agreement in writing from such person that the minor will be properly taken care of and duly instructed in some trade, profession or calling by the exercise of which he may be able to earn his own livelihood,

or, failing such person, be disposed of in any manner to be provided for by rules framed by the Local Government under section 14.

(2) Upon complaint made to any magistrate by or on behalf of any minor, in respect of whom such agreement as aforesaid shall have been executed, of refusal or neglect to provide for him or to teach him according to the agreement, or of cruelty or other ill-treatment by his master or by the agent under whom he shall have been placed by his master, the magistrate may summon the master or his agent, as the case may be, if he is within his jurisdiction, to appear before him at a reasonable time to be stated in the summons to answer the complaint, and at such time, whether the master or his agent be present or not (the service of the summons being proved), may examine into the matter of the complaint and, upon proof thereof may cancel the agreement and assess upon the offender whether he shall be the master or his agent a reasonable sum for the benefit of the minor not exceeding Rs. 500, and if the offender shall not pay the sum so assessed may levy the same by distress and sale of his goods and chattels and if the offender shall not be the master, but his agent, by distress and sale of goods and chattels of his master also.

11. Notwithstanding anything hereinbefore contained, if any sadhu or fakir against whom proceedings are being taken under section 8 of this Act alleges that the minor came under his control in some place outside the territories to which this Act applies, the magistrate in charge of such proceedings may by order direct him to furnish within a time specified therein evidence of the manner in which he obtained possession of the minor and may during such time remand to custody either the sadhu or fakir, or the minor, or both, or take bail for their appearance before him on any specified date.

If the magistrate should find that the adoption was made with the consent of the parent or guardian of the minor, or that the parent or guardian of the minor cannot be traced, but that the adoption is in the interest of the minor, the magistrate shall either grant to the sadhu or fakir a certificate as provided for by section 3 or shall send the parties concerned to the magistrate of the district in which proceedings under section 8 are being taken with recommendation that such certificate be granted, and the district magistrate shall accordingly grant such certificate. But if the magistrate should find that the circumstances of the case do not justify the granting of a certificate he may then proceed as provided for by clause 10 :

Provided that this will not apply to the case of a minor who is a natural-born son of a sadhu or fakir and is found so begging in company of his father.

If satisfactory evidence be furnished that the possession of such minor is legitimate, the magistrate shall record the circumstances and either grant to the sadhu or fakir a certificate as provided for by section 3, or send the parties concerned to the district magistrate with a recommendation that such certificate be granted.

If no satisfactory evidence as to the origin of the possession of such minor be produced, the magistrate shall direct that the minor be taken from the sadhu and be dealt with as provided in section 10.

12. Any minor found begging in any street or public place, whether under the pretext of offering anything for sale or otherwise may be dealt with in the manner provided for by section 10 of this Act.

13. (1) Any police officer not below the rank of a sub-inspector may arrest without a warrant any person who appears to him to be committing an offence under section 8 of this Act.

(2) All offences provided for by this Act shall be bailable.

Chapter IV—Miscellaneous.

14. The Local Government may frame rules prescribing—
Power of Local Government to make rules.

- (a) the form of registers to be maintained under this Act ;
- (b) the form of certificate to be granted under this Act ;
- (c) the form of agreement which may be obtained under section 10 ;
- (d) the fees, if any, payable on the registration of an adoption ;
- (e) the maintenance at the headquarters of each district of a record of all registrations effected in the United Provinces under this Act ;
- (f) the manner of disposing of unclaimed orphans under section 10 ;
- (g) generally for the more effectual carrying out of the purpose of this Act.

STATEMENT OF OBJECTS AND REASONS.

THIS Bill aims at the removal of a standing grievance in the whole country that minors, both Hindus and Muhammalans, are forced or induced to become sadhus or fakirs before the age of 18 years, who generally lead a life of mendicancy or commit crimes. I moved a resolution in the United Provinces Council, and a committee under rule 13 of the then Council Rules was appointed to draft a Bill. The committee after making inquiries drafted a Bill in 1919 and submitted it to the Government, but as the councils were going to be reformed, no further action was taken on the subject. The majority of opinion received on the subject were unanimous in having some legislation on the subject. As it is an All India subject, I would like to introduce the enclosed Bill in the Council of State. It is a very mild measure and requires every person, who gets a minor to have him registered in the district from which he takes the boy. The Bill concerns only the boys and not the girls. If no registration will be made and a person will be found in custody of any unregistered minor, he shall be required to get a certificate of registration or make over the boy to the officer in charge who would make him over, for being brought up, to any private individual or to any recognised orphanage. The provisions of the Bill are tentative and liable to necessary changes, which can be made after the introduction of the Bill in the Council.

DELHI :

The 19th January, 1922. }

SUKHBIR SINHA.

H. MONCRIEFF SMITH,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 27th February, 1922 :—

No. 9 OF 1922.

*A bill to regulate the employment of child labour
in ports in British India.*

WHEREAS it is expedient to regulate the employment of child labour in ports in British India ; It is hereby enacted as follows :—

1. This Act may be called the Indian Ports
Short title. (Amendment) Act, 1922 .

2. In section 6 of the Indian Ports Act, XV of 1908.
Amendment of 1908,—
section 6, Act XV of 1908.

(a) after sub-section (1), the following sub-section shall be inserted, namely :—

“(1A) In addition to any rules which it is empowered to make under sub-section (1), the Local Government shall make rules prohibiting the employment at piers, jetties, landing-places, wharves, quays, docks, warehouses and sheds of children under the age of twelve years upon the handling of goods other than goods which can be transported by hand ”; and

(b) in sub-section (2) after the word and figure “sub-section (1)” the words and figure “and sub-section (1A)” shall be inserted.

STATEMENT OF OBJECTS AND REASONS.

The general Conference of the International Labour Organisation of the League of Nations convened at Washington on the 29th October, 1919, adopted a Draft Convention concerning the minimum age for admission of children to industrial employment. Article 6 (c) of the Convention prohibits, *inter alia*, the employment of children under twelve years of age in the handling of goods in docks, quays and wharves, but excluding transport by hand. On the recommendation of the Legislative Assembly and the Council of State, the Governor General in Council has ratified the whole of the Convention, and the Government of India are now under an obligation to make the provisions of Article 6 (c) effective. The object of the present Bill is to fulfil this obligation so far as the employment of children in the handling of goods in docks, quays and wharves is concerned.

C. A. INNES.

-The 8th February, 1922.

H. MONCRIEFF SMITH,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 28th February 1922 :—

No. 10 OF 1922.

A Bill to define the liability of a Hindu Coparcener.

WHEREAS doubts have arisen as to the liability of a Hindu coparcener, subject to the *Mitakshara* Law, for the debts incurred by the manager for family necessity, and also as regards the antecedent debt of the father; and whereas it is expedient to define his liability; It is hereby enacted as follows :—

1. (1) This Act may be called the Hindu Short title, com- Coparcener's Liability Act; mencement and extent. 192 .

(2) It shall come into force on the day of

(3) It shall extend to persons subject to the *Mitakshara* Law in the whole of British India.

2. In this Act, unless there is anything repugnant in the subject or context :—

- (i) "coparcener" includes a minor member of a joint *Mitakshara* family;
- (ii) "debt" includes a pecuniary obligation arising out of a contract, express or implied, or from a breach of civil duty;
- (iii) "antecedent debt", with reference to a transfer made by the father, means a debt contracted prior thereto in a transaction unconnected therewith.

*Explanation :—*A debt may be antecedent though it was contracted on the security of coparcenary estate.

3. Notwithstanding anything otherwise held to Coparcener's share the contrary, the interest of when liable. a member of a joint *Mitakshara* family in the family property shall be liable for a debt incurred by the manager for legal necessity or for the benefit of the estate, and where the debt is incurred by the father, also for his own antecedent debt, not illegal or immoral.

4. The son is liable to pay his father's debts, Extent of son's liability. not illegal or immoral, to the extent of his interest in the coparcenary estate, or of the assets inherited by him.

Save as above such liability is otherwise co-extensive with that of the father and is not dependent upon the latter's death.

5. (1) The unsecured creditor suing the son for the recovery of his father's debt must prove the debt.
Creditor's suit against the son.

(2) It is then upon the son to prove that the debt was non-existent, or that it was illegal or immoral, of which fact the creditor had notice.

(3) The creditor may then show that he had made the loan after reasonable inquiry, being satisfied that it was required for a purpose neither illegal nor immoral.

6. In a suit on a mortgage executed by the father or manager against the other coparceners, it lies on the mortgagee to prove that the debt was contracted for a purpose binding upon them.
Mortgagee's suit against coparceners.

7. In a suit instituted to enforce a mortgage executed by the manager, the other members are proper parties, but their non-joinder does not exempt them from liability, if it appears that they were sufficiently represented by the manager.
Joinder of parties.

8. (1) It lies on the coparcener suing for recovery of joint property sold by the manager to prove that the sale was one which, by its nature and purpose, did not bind his interest, and that the purchaser had notice of it.
Burden where purchaser is in possession.

(2) In a sale made in execution of a decree obtained against the manager the Court will presume that the purchaser, if a stranger to the suit, had no notice of anything that does not appear in the decree.

9. (1) A decree passed against the manager in respect of a liability incurred within the scope of his authority is enforceable against the other members of the joint family though they may not have been parties to the suit.
Effect of decree against the manager.

(2) But in such case the other members are not precluded from contesting the authority of the manager or the binding nature of the debt.

(3) Where a decree directs sale of the rights, title and interest of the defendant in any property, the question whether the sale so made

suffices to pass the entire estate of which the defendant was the manager or only his own interest, is one of construction and intention to be gathered from the proceedings and other circumstances of the case.

(4) In particular and without prejudice to the generality of the foregoing provision in determining the question the following facts are material:—

- (a) The nature of the contract, if any.
- (b) The character of the debt.
- (c) The capacity in which the defendant is sued.

(d) The intention of the Court.

(e) The price paid by the purchaser.

(f) And any fact which shows what interest he intended to purchase.

Illustration.

A decree is passed against the father A, for sale of his interest in mouza B, which is his family property. C objects to the sale of anything beyond A's interest therein on the ground that the decree was obtained for A's immoral debt. He fails to prove it. The sale conveys the entirety of B.

STATEMENT OF OBJECTS AND REASONS.

THIS Bill is intended to restore the current of decisions relating to the coparcener's liability for debts contracted and transfers made by the manager of a *Mitakshara* joint family, and the father who occupied a position of greater strength before the decision of the Privy Council in *Sahu Ram's case* (39 A. 437 P. C.). This case has given rise to a crop of cases upon which there is already a sharp conflict between the several High Courts. In two Full Bench cases the Madras and the Patna High Courts have held the case to leave undisturbed the pre-existing law [43 M. 711; F. B. (1921) Pat. 245 F. B.]; but this view has not found favour with the other Courts (41 A. 235; 529; 52 I. C. Oudh Case 449; 22 Oudh Case 25; 84; 23 Oudh Case 204; 264; 327; 6 Oudh L. J. 297; 331; 48 I. C. Nagpur Case 193). Advantage has been taken of the present Bill to define not only the liability of the coparcener and the son but the extent of their rights in the coparcenary estate.

It is hoped that the measure if passed into law will not only quell the doubts which the Courts have felt on the position of coparceners but assist in the administration of Hindu Law, in which others dealing with members of a joint family feel equally concerned, and who have a right to expect from the Legislature a clear enunciation of their rights and liabilities which cannot be left to the chance of litigation.

The notes on clauses hereto appended explain and justify them on the strength of cases noted thereon.

DELHI :

The 24th November, 1921.

H. S. GOUR.

NOTES ON CLAUSES.

Clause 2.—'Debt' has nowhere been defined in the Hindu Law. The question whether it includes a pecuniary liability arising from a breach of civil duty has been answered in the affirmative by the Calcutta High Court (24 C. 672, 39 C. 862).

'Antecedent debt.'—This definition accords with the cases decided before *Surit Ram's case* (39 A. 377 P. C.) and is in accordance with the decisions of the Full Bench in 43 M. 711; 1921 Pat. 245.

It overrules *Sahu Ram V. Bhup Singh* (39 A. 377 P. C.) so far as it is understood to lay down the contrary and the cases which so understand it.

Clause 3.—This is in accordance with the following cases:—

6 M. I. A. 893; 40 M. 709 P. C. The position of the father as such is independent of his status as manager, *see* 13 C. 21; 40 C. 342; 33 B. 264; 42 M. 711.

Clause 4.—This is the effect of 8 B. 220, 309, 33 B. 264; 40 C. 342. The son's pious obligation arises independently of the father's death—22 M. 49 F. B. which is in accordance with Hindu Law. The contrary laid down by the Privy Council in 39 A. 377 is here overruled.

Clauses 5—9.—These are copied from my Hindu Code (ss. 123—127), where numerous authorities will be found cited in support of them.

DELHI :

The 24th November, 1921.

H. S. GOUR.

H. MONCRIEFF SMITH,
Secretary to the Government of India.

GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 28th February, 1922 :—

No. 11 of 1922.

A Bill further to amend the Married Women's Property Act, 1874.

1 of 1874. WHEREAS it is expedient further to amend the Married Women's Property Act, 1874, in the manner hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Married Women's Property (Amendment) Act, 1922 .
Short title.

2. To section 6 of the Married Women's Property Act, 1874, the Amendment of section 6, Act III of 1874, the following shall be added, III of 1874.
namely :—

“Notwithstanding anything contained in section 2, this section shall apply, and shall be deemed to have always applied, to Hindus, Muhammedans, Buddhists, Sikhs, and Jains.”

3. Nothing herein enacted shall invalidate any judgment of any competent Court pronounced before the date on which this Act shall receive the assent of the Governor General.
Saving of past judgments.

STATEMENT OF OBJECTS AND REASONS.

Doubts have arisen whether, in view of section 2 of the Married Women's Property Act, 1874 (III of 1874), section 6 thereof, which relates to a Policy of Insurance effected by a married man on his own life and expressed on the face of it to be for the benefit of his wife, or of his wife and children, or any of them, applies to Hindus, Muhammadans, Buddhists, Sikhs, and Jains. There is a conflict of decisions of the different High Courts on the point. The Madras High Court has held that section 6 applies to Hindus, etc. (*Vide* I. L. R., 37 Madras, 488), whereas the Bombay High Court in 37 Bom. 471 has held that section 2 excludes Hindus, etc., from the benefit of section 6, so that a Policy of Insurance effected by a Hindu husband and expressed on the face of it to be for the benefit of his wife forms part of the estate of the deceased, and is not a trust for his widow. •

It is desirable to place the point beyond any doubt, to have a uniformity of law on the subject throughout India, and to extend the benefit of section 6 to Hindus, etc. This Bill is intended to effect this by an amendment of section 6 of the Married Women's Property Act of 1874.

POONA;
The 14th July, 1921. }

B. S. KAMAT.

H. MONCRIEFF SMITH,
Secretary to the Government of India

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 28th February 1922 :—

No. 12 OF 1922.

A Bill further to amend the Indian Penal Code.

WHEREAS it is expedient further to amend the Indian Penal Code; It is hereby enacted as follows :—

1. This Act may be called the Indian Penal Code (Amendment) Act, 1922.
Short title.
2. In section 375 of the Indian Penal Code for the word "twelve" in both places where it occurs, the word "fourteen" shall be substituted.
Amendment of section 375, Act XLV of 1860.
3. The Indian Criminal Law Amendment Act, X of 1891, is hereby repealed.
Repeal of Act X of 1891.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to raise in the case of rape the age of consent of the female concerned from twelve to fourteen years by substituting the word "fourteen" for the word "twelve" in the definition of the offence as given in section 375 of the Indian Penal Code, in the clause marked "Fifthly" and in the "Exception" of the section.

The reasons for this amendment are that the age of consent, for the purposes of the offence of rape according to the original Penal Code as it was framed in 1860, was fixed at ten years. The more advanced members of the Society have always been questioning the correctness of the Legislature in this respect, and had been trying to press upon the public as well as upon the Legislature the necessity of raising this limit of age, but had been helpless to meet the opposition of the orthodox section of the country until the inhuman consequences of this legislation were judicially established in the case of *Queen Empress versus Hurree Mohan Mythee* (18 Cal. I. L. R. page 49), in which the accused husband who was found to have caused the death of his wife aged eleven years and three months by an act of sexual intercourse with her, could not be charged with the offence of rape. This was an instance of destruction of human life of an innocent girl of immature age by an inhuman act of her husband; though a girl of such immature age is neither capable of feeling any sense of carnal knowledge, nor is physically developed for sexual intercourse; and her consent to the cohabitation is no consent in the eye of the law. This case, however, had the effect of drawing the attention of the Legislature to the injurious consequences resulting from the extremely low age fixed in section 375 of the Indian Penal Code on the lives of girls of immature age by acts of sexual intercourse and of necessitating its amendment by raising the age-limit from ten to twelve years by Act X of 1891. Though since this amendment no other case of homicide has been judicially detected as a consequence of early marriage and consummation with child wives, but it is highly improbable to detect any such cases which are not

uncommon amongst families of high classes who allow marriages at so early an age which is still too low and not quite free from danger of the loss of life of immature girls of very weak constitution. In the case published in 18 Cal., page 49, the girl was found to be of strong constitution and the amendment made by Act X of 1891 raising the age of consent to a few months above the age of the girl concerned in the above-mentioned ruling does not provide sufficient safeguard against danger to the life of immature girls of weaker constitution even though slightly exceeding the age of twelve years; while even in the case of the girls of stronger constitution, before puberty the sexual intercourse invariably causes grievous sufferings short of death and produces permanent injury to the proper and regular development of the physical and mental constitution of the girl as well as of the offspring born by such girl. In England Statute 48 & 49 Vict., Cap. 69, sections 4 and 5 prescribe minimum age for consent in the case of offence of rape at sixteen years which is the minimum age at which a girl becomes, according to medical science, fully developed for sexual intercourse and for giving birth to a healthy child without danger to the life or health of herself and of the child. I believe in other civilized countries of Europe and America the age of consent for purposes of the offence of rape is not below sixteen years; and therefore the age of consent of the girl, so far as the offence of rape is concerned, requires to be raised to sixteen years; but having regard to the custom of early marriage still prevailing in this country amongst high classes of Hindus and Muhammadans, only a medical step is recommended for the present, and fourteen years is fixed as the age before which sexual intercourse even by the husband with his wife though consented to by the girl must be legally prohibited and be made an offence within the definition of rape in the Indian Penal Code. This amendment is expected to have the effect of reducing death rate amongst married girls of immature age and amongst infants, and is expected to improve the physical constitution, longevity and mental strength of the progeny.

The 23rd November, 1921.

SOHAN LAL, M.L.A.

H. MONCRIEFF SMITH,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 1st March, 1922 :—

No. 13 OF 1922.

A Bill to enhance the duty on salt manufactured in, or imported by land into, certain parts of British India, further to amend the Indian Tariff Act, 1894, the Cotton Duties Act, 1896, and the Indian Post Office Act, 1898, to impose an excise duty on kerosene, to fix rates of income-tax and to abolish the freight tax

WHEREAS it is expedient to enhance the duty on salt manufactured in, or imported by land into, certain parts of British India, further to amend the Indian Tariff Act, 1894, the Cotton Duties Act, 1896, and the Indian Post Office Act, 1898, to impose an excise duty on kerosene, to fix rates of income-tax and to abolish the freight tax ; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Short title, extent and Finance Act, 1922. duration.

(2) It extends to the whole of British India including, except as regards section 4 the Sonthal Parganas and, except as regards sections 4 and 6, British Baluchistan.

(3) Sections 2, 5 and 7 shall remain in force only up to the 31st day of March, 1923.

2. With effect from the first day of March, 1922, the provisions of

Enhancement of salt duty. section 7 of the Indian Salt Act, 1882, shall, in

so far as they enable the Governor General in Council to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India other than Burma and Aden, be construed as if they imposed such duty at the rate of two rupees and eight annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

3. (1) With effect from the first day of March, 1922, for the Second Amendment of Act VIII of 1894. Schedule to the Indian Tariff Act, 1894, the Schedule contained in the First Schedule to this Act shall be substituted.

(2) With effect from the same date, section 2 of the Indian Finance Act, 1921, and the First Schedule to that Act shall be repealed.

4. With effect from the first day of March, 1922, the following amendment shall be made in the Cotton Duties Act, 1896, namely, in section

6 for the figure "3½" the figure "7½" shall be substituted

5. With effect from the first day of April, 1922, the Schedule contained in the Second Schedule to this Act shall be inserted in the

Indian Post Office Act, 1898, as the First Schedule VI of 1898. to that Act.

6. With effect from the first day of March, 1922, the provisions of the Motor Spirit (Duties) Act, 1917, which provide

Imposition of excise duty on kerosene. for the levy and collection of an excise duty on motor spirit, that is to say, all the provisions of that Act except section 6 thereof, shall apply also for the purpose of the levy and collection of an excise duty on kerosene as if references in the said Act to motor spirit (other than the reference in the second clause of section 2 thereof) were references to kerosene :

Provided that the duty on kerosene shall be levied and collected at the rate of one anna on each imperial gallon.

Explanation.—For the purposes of this section, "kerosene" means any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons but excluding motor spirit) which—

(a) is made from petroleum as defined in section 2 of the Indian Petroleum Act, 1899, and

(b) is intended to be, or is ordinarily, used for purposes of illumination.

7. (1) Income-tax for the year beginning on the first day of April, 1922, shall be charged at the rates specified in Part

Income-tax and super-tax. I of the Third Schedule

(2) The rates of super-tax for the year beginning on the first day of April, 1922, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Third Schedule.

(3) For the purposes of the Third Schedule "total income" means total income as defined in clause (15) of section 2 of the Indian Income tax Act, 1922.

8. With effect from the first day of April, 1917. Repeal of Act XIII of 1922, the Freight (Railway and Inland Steam- vessel) Tax Act, 1917, shall be repealed.

It is hereby declared that it is expedient in the public interest that this Bill should have temporary effect under the provisions of the Provisional Collection of Taxes Act, 1918.

XVI of 1918.

II of 1882.

VIII of 1894.

VI of 1921.

II of 1896.

of 1922.

of 1922.

VIII of 1899

XIII of 1917.

SCHEDULE I.

Schedule to be substituted in the Indian Tariff Act, 1894.

[See section 3 (1).]

"SCHEDULE II—IMPORT TARIFF.**PART I.**

Articles which are free of duty.

No.	Names of Articles.
I.—Food, Drink and Tobacco—	
1	Hops.
2	SALT imported into British India and issued, in accordance with rules made with the previous sanction of the Governor General in Council, for use in any process of manufacture; also salt imported into the port of Calcutta and issued with the sanction of the Government of Bengal to manufacturers of glazed stone-ware; also salt imported into any port in the provinces of Bengal and Bihar and Orissa and issued, in accordance with rules made with the previous sanction of the Governor General in Council, for use in curing fish in those provinces. (For the general duty on salt, see No. 85.)
II.—Raw materials and produce and articles mainly unmanufactured—	
HIDES AND SKINS, RAW.	
3	HIDES AND SKINS, raw or salted.
METALLIC ORES.	
4	METALLIC ORES, all sorts.
PRECIOUS STONES AND PEARLS.	
5	PRECIOUS STONES, unset and imported uncut, and PEARLS, unset.
SEEDS.	
6	OIL-SEEDS imported into British India by sea from the territories of any Prince or Chief in India.
TEXTILE MATERIALS.	
7	COTTON, raw.
8	WOOL, raw.
MISCELLANEOUS.	
9	MANURES, all sorts, including animal bones and the following chemical manures:—Basic slag, nitrate of ammonia, nitrate of soda, muriate of potash, sulphate of ammonia, sulphate of potash, kainit salts, nitrate of lime, calcium cyanamide, mineral phosphates and mineral superphosphates.
10	PULP OF WOOD, RAGS and other paper-making materials.
III.—Articles wholly or mainly manufactured—	
APPAREL.	
11	UNIFORMS AND ACCOUTREMENTS appertaining thereto, imported by a public servant for his personal use.
ARMS, AMMUNITION AND MILITARY STORES.	
12	The following ARMS, AMMUNITION AND MILITARY STORES:— (a) Articles falling under the 5th, 6th, 8th, 9th or 10th item of No. 42, when they appertain to a firearm falling under the 1st or 3rd item and are fitted into the same case with such firearm. (b) Arms forming part of the regular equipment of a commissioned or gazetted officer in His Majesty's Service entitled to wear diplomatic, military, naval, Royal Air Force or police uniform.

SCHEDULE II—IMPORT TARIFF.

PART I—*contd.*

Articles which are free of duty.

No.	Names of Articles.
	<p>(c) A revolver and an automatic pistol and ammunition for such revolver and pistol up to a maximum of 100 rounds per revolver or pistol, (i) when accompanying a commissioned officer of His Majesty's regular forces, or of the Indian Auxiliary Force or the Indian Territorial Force or a gazetted police officer, or (ii) certified by the commandant of the corps to which such officer belongs, or, in the case of an officer not attached to any corps, by the officer commanding the station or district in which such officer is serving, or, in the case of a police officer, by an Inspector General or Commissioner of Police, to be imported by the officer for the purpose of his equipment.</p> <p>(d) Swords for presentation as army or volunteer prizes.</p> <p>(e) Arms, ammunition, and military stores imported with the sanction of the Government of India for the use of any portion of the military forces of a State in India which may be maintained and organized for Imperial Service.</p> <p>(f) Morris tubes and patent ammunition imported by officers commanding British and Indian regiments or volunteer corps for the instruction of their men.</p>
	CHEMICALS, DRUGS AND MEDICINES.
13	ANTI-PLAGUE SERUM.
14	QUININE and other alkaloids of cinchona.
	HARDWARE, IMPLEMENTS AND INSTRUMENTS.
15	The following AGRICULTURAL IMPLEMENTS, namely, winnowers, threshers, mowing and reaping machines, binding machines, elevators, seed-crushers, chaff-cutters, root-cutters, ensilage-cutters, horse and bullock gears, ploughs, cultivators, scarifiers, harrows, clod-crushers, seed-drills, hay-tedders, and rakes; also agricultural tractors; also component parts of these implements or tractors, provided that they can be readily fitted into their proper places in the implements or tractors for which they are imported, and that they cannot ordinarily be used for purposes unconnected with agriculture.
16	The following DAIRY APPLIANCES, namely, cream separators, milk sterilizing or pasteurizing plant, milk aerating and cooling apparatus, churns, butter dyers, and butter workers; also component parts of these appliances, provided that they can be readily fitted into their proper places in the appliances for which they are imported, and that they cannot ordinarily be used for other than dairy purposes.
17	INSTRUMENTS, APPARATUS and APPLIANCES, imported by a passenger as part of his personal baggage and in actual use by him in the exercise of his profession or calling.
18	WATER-LIFTS, SUGAR-MILLS, OIL-PRESSES, and parts thereof, when constructed so that they can be worked by manual or animal power.
	METALS.
19	CURRENT NICKEL, BRONZE, AND COPPER COIN of the Government of India.
20	GOLD AND SILVER BULLION and coin.
	PAPER.
21	TRADE CATALOGUES AND ADVERTISING CIRCULARS imported by packet, book, or parcel post.
	YARNS AND TEXTILE FABRICS.
22	SECOND-HAND OR USED GUNNY BAGS made of jute.
	MISCELLANEOUS.
23	ART, the following works of:—(1) statuary and pictures intended to be put up for the public benefit in a public place, and (2) memorials of a public character intended to be put up in a public place, including the materials used, or to be used in their construction, whether worked or not.
24	Books printed, including covers for printed books, maps, charts, and plans, proofs, music and manuscripts.
	IV.—Miscellaneous and unclassified—
25	ANIMALS, living, all sorts.
26	SPECIMENS ILLUSTRATIVE OF NATURAL SCIENCE, and medals and antique coins."

SCHEDULE II—IMPORT TARIFF.

PART II.

Articles which are liable to duty at special rates.

No.	Names of Articles.	Unit or method of assessment.	Rate of duty.
I.—Food, Drink and Tobacco—			B A.
FISH.			
27	FISH, SALTED, wet or dry	Indian maund of 82½ lbs. avoirdupois weight.	Such rate or rates of duty not exceeding one rupee as the Governor General in Council may, by notification in the Gazette of India, from time to time, prescribe.
LIQUORS.			
28	ALE, Beer, Porter, Cider and other fermented liquors.	Imperial gallon or 6 quart bottles.	Eight annas.
29	SPRIT, which has been rendered effectually and permanently unfit for human consumption.	<i>Ad valorem</i>	7½ per cent.
30	PERFUMED SPIRITS	Imperial gallon or 6 quart bottles.	36 0
31	LIQUEURS, Cordials, Mixtures and other preparations containing spirit—		
	(a) Entered in such a manner as to indicate that the strength is not to be tested.	Ditto.	30 0
	(b) If tested	Imperial gallon or 6 quart bottles of the strength of London proof.	21 14 and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.
32	All other sorts of SPRIT	Ditto.	Ditto.
33	WINES—		
	Champagne and all other sparkling wines not containing more than 42 per cent. of proof spirit.	Imperial gallon or 6 quart bottles.	9 0
	All other sorts of wines not containing more than 42 per cent. of proof spirit:	Ditto.	4 8
	Provided that all sparkling and still wines containing more than 42 per cent. of proof spirit shall be liable to duty at the rate applicable to 'All other sorts of Spirit.'		
SUGAR.			
34	SUGAR, all sorts including molasses and saccharine produce of all sorts, but excluding confectionery (<i>see</i> No. 123).	<i>Ad valorem</i>	25 per cent.
OTHER FOOD AND DRINK.			
35	SALT, excluding salt exempted under No. 2	Indian maund of 82½ lbs. avoirdupois weight.	The rate at which excise duty is for the time being leviable on salt manufactured in the place where the import takes place.
TOBACCO.			
36	TOBACCO, unmanufactured	Pound	1 0
37	CIGARS AND CIGARETTES	<i>Ad valorem</i>	75 per cent.
38	All other sorts of TOBACCO manufactured	Pound	2 4

SCHEDULE II—IMPORT TARIFF.

PART II—*contd.*

Articles which are liable to duty at special rates.

No.	Names of Articles.	Unit or method of assessment.	Rate of duty.
	II.—Raw materials and produce and articles mainly unmanufactured—		R A.
	COAL, COKE AND PATENT FUEL.		
39	COAL, COKE AND PATENT FUEL	Ton	0 8
	OILS.		
40	KEROSENE and MOTOR SPIRIT; also any mineral oil other than kerosene and motor spirit which has its flashing point below one hundred degrees of Fahrenheit's thermometer by Abel's close test. NOTE.—Motor spirit is liable to an additional duty of 6 annas per gallon under Act II of 1917 as amended by Act III of 1919.	Imperial gallon	Two annas and six pies.
41	MINERAL OIL which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer, and is such as is not ordinarily used for any other purpose than for the batching of jute or other fibre, or for lubrication, and mineral oil which has its flashing point at or above one hundred and fifty degrees of Fahrenheit's thermometer, and is such as is not ordinarily used except as fuel or for some sanitary or hygienic purpose.	<i>Ad valorem</i>	7½ per cent.
	III.—Articles wholly or mainly manufactured—		
	ARMS, AMMUNITION AND MILITARY STORES.		
42	Subject to the exemptions specified in No. 12—		R
	(1) Firearms other than pistols, including gas and air-guns and rifles.	Each	15
	(2) Barrels for the same, whether single or double.	„	15
	(3) Pistols, including automatic pistols and revolvers.	„	15
	(4) Barrels for the same, whether single or double.	„	15
	(5) Main springs and magazine springs for firearms, including gas-guns and rifles.	„	5
	(6) Gun stocks and breech blocks	„	8
	(7) Revolver-cylinders, for each cartridge they will carry.	„	2
	(8) Actions (including skeleton and waste) breech bolts and their heads, cocking pieces, and locks for muzzle loading arms.	„	1
	(9) Machines for making, loading, or closing cartridges for rifled arms.	<i>Ad valorem</i>	80 per cent.
	(10) Machines for capping cartridges for rifled arms.	<i>Ad valorem</i>	80 per cent.

or 80 per cent. *ad valorem*, whichever is higher.

SCHEDULE II—IMPORT TARIFF.

PART II—*concl'd.*

Articles which are liable to duty at special rates.

No.	Names of Articles.	Unit or method of assessment.	Rate of duty.
	CHEMICALS, DRUGS AND MEDICINES.		R A.
43	Opium and its alkaloids and their derivatives.	Seer of 80 tolas .	24 0
	YARNS AND TEXTILE FABRICS.		
44	COTTON TWIST AND YARN, and COTTON SEWING OR DARNING THREAD.	<i>Ad valorem</i> . . .	5 per cent.
	MISCELLANEOUS.		
45	Matches—		R A.
	(1) In boxes containing on the average not more than 100 matches.	Per gross of boxes .	1 8
	(2) In boxes containing on the average more than 100 matches.	For every 25 matches or fraction thereof in each box, per gross of boxes.	0 6

SCHEDULE II—IMPORT TARIFF.

PART III.

Articles which are liable to duty at 2½ per cent. *ad valorem*.

No.	Names of Articles.
	I.—Food, Drink and Tobacco—
	GRAIN, PULSE AND FLOUR.
46	GRAIN AND PULSE, all sorts, including broken grains and pulse, but excluding flour (<i>see</i> No. 37).
	PROVISIONS AND OILMAN'S STORES.
47	VINEGAR in casks.
	II.—Raw materials and produce and articles mainly unmanufactured—
	WOOD AND TIMBER.
48	FIREWOOD.
	III.—Articles wholly or mainly manufactured—
	CHEMICALS, DRUGS AND MEDICINES.
49	COPPERAS, green.
	METALS OTHER THAN IRON AND STEEL.
50	LEAD sheets, for tea-chests.
	MISCELLANEOUS.
51	AEROPLANES, aeroplane parts, aeroplane engines and aeroplane engine parts.
52	PRINTING AND LITHOGRAPHING MATERIAL, namely, presses, type, ink, aluminium lithographic plates, brass rules, composing sticks, chases, imposing tables, and lithographic stones, stereo-blocks, wood blocks, half tone blocks, electrotypes blocks, roller moulds, roller frames and stocks, roller composition, standing screw and hot presses, perforating machines, gold blocking presses, galley presses, proof presses, aiming presses, copper plate printing presses, rolling presses, ruling machines, ruling pen making machines, lead and rule cutters, type casting machines, type setting and casting machines, rule bending machines, rule mitreing machines, bronzing machines, leads, wooden and metal quoins, shooting sticks and galleys, stereotyping apparatus, metal furniture, paper folding machines, and paging machines, but excluding paper (<i>see</i> No. 98).
53	RACKS for the withering of tea leaf.
54	TEA-CHESTS of metal or wood, whether imported entire or in sections, provided that the Collector of Customs is satisfied that they are imported for the purpose of the packing of tea for transport in bulk.
55	FODDER, BEAN AND POLLARDS

SCHEDULE II—IMPORT TARIFF.

PART IV.

Articles which are liable to duty at 10 per cent. *ad valorem*.

No.	Names of Articles.
	II.—Raw materials and produce and articles mainly unmanufactured—
	METALLIC ORES AND SCRAP IRON OR STEEL FOR RE-MANUFACTURE.
56	IRON OR STEEL, old.
	III.—Articles wholly or mainly manufactured—
	HARDWARE, IMPLEMENTS AND INSTRUMENTS.
57	TELEGRAPHIC INSTRUMENTS AND APPARATUS, and parts thereof imported by or under the orders of a railway company.
	MACHINERY.
58	MACHINERY, namely, prime-movers and component parts thereof, including boilers and component parts thereof, also including locomotive and portable engines, steam-rollers, fire engines, motor tractors designed for purposes other than agriculture, and other machines in which the prime-mover is not separable from the operative parts.
	MACHINERY (and component parts thereof), meaning machines or sets of machines to be worked by electric, steam, water, fire or other power not being manual or animal labour, or which, before being brought into use, require to be fixed with reference to other moving parts; and including belting of all materials for driving machinery:
	Provided that the term does not include tools and implements to be worked by manual or animal labour, and provided also that only such articles shall be admitted as component parts of machinery as are indispensable for the working of the machinery, and are, owing to their shape or to other special quality, not adapted for any other purpose.
	<i>Note.</i> —This entry includes machinery and component parts thereof made of substances other than metal.
	METALS—IRON AND STEEL.
59	IRON, angle.
	„ bar, rod and channel, including channel for carriages.
	„ pig.
	„ rice bowls.
60	IRON OR STEEL, anchors and cables.
	„ „ beams, joists, pillars, girders, screw piles, bridge work and other descriptions of iron or steel, imported exclusively for building purposes; including also ridging, guttering and continuous roofing.
	„ „ bolts and nuts, including hook-bolts and nuts for roofing.
	„ „ hoops and strips.
	„ „ nails, rivets and washers, all sorts.
	„ „ pipes and tubes and fittings therefor, such as bends, boots, elbows, tees, sockets, flanges, and the like.
	„ „ rails, chairs, sleepers, bearing and fish-plates, spikes (commonly known as dog-spikes), switches and crossings, other than those described in No. 62, also lever-boxes, clips and tie-bars.
	„ „ sheets and plates, all sorts excluding discs and circles which are dutiable under No. 96,
	„ „ wire, including fencing wire, piano-wire and wire-rope, but excluding wire-netting which is dutiable under No. 96.
61	STEEL, angle.
	„ bar, rod, and channel, including channel for carriages.
	„ cast including spring blistered and tub steel.
	„ ingots, blooms, billets and slabs.

SCHEDULE II—IMPORT TARIFF—*contd.*PART IV—*contd.*Articles which are liable to duty at 10 per cent. *ad valorem*—*contd.*

No.	Name of Articles.
RAILWAY PLANT AND ROLLING-STOCK.	
62	<p>RAILWAY MATERIAL for permanent-way and rolling-stock, namely, cylinders, girders, and other material for bridges, rails, sleepers, bearing and fish-plates, fish-bolts, chairs, spikes, crossings, sleeper fastenings, switches, interlocking apparatus, brake gear, couplings and springs, signals, turn-tables, weigh-bridges, engines, tenders, carriages, wagons, traversers, trolleys, trucks, and component parts thereof; also the following articles when imported by, or under the orders of, a railway company, namely, cranes, water cranes, water tanks, and standards, wire and other materials for fencing :</p> <p>Provided that for the purpose of this entry ' railway ' means a line of railway subject to the provisions of the Indian Railways Act, 1890, and includes a railway constructed in a State in India and also such tramways as the Governor General in Council may, by notification in the <i>Gazette of India</i>, specifically include therein :</p> <p>Provided also that only such articles shall be admitted as component parts of railway material as are indispensable for the working of railways, and are, owing to their shape or to other special quality, not adapted for any other purpose.</p>
63	<p>SHIPS AND OTHER VESSELS for inland and harbour navigation, including steamers, launches, boats and barges imported entire or in sections.</p>

SCHEDULE II—IMPORT TARIFF.

PART V.

Articles which are liable to duty at 15 per cent. *ad valorem*.

No.	Names of Articles.
I.—Food, Drink and Tobacco—	
FISH.	
64	FISH, excluding salted fish (<i>see</i> No. 27).
65	FISHMAWS, including singally and sozille, and sharkfins.
FRUITS AND VEGETABLES.	
66	FRUITS AND VEGETABLES, all sorts, fresh, dried, salted or preserved.
GRAIN, PULSE AND FLOUR.	
67	FLOUR.
PROVISIONS AND OILMAN'S STORES.	
68	PROVISIONS AND OILMAN'S STORES AND GROCERIES, all sorts, excluding vinegar in casks (<i>see</i> No. 47).
SPICES.	
69	SPICES, all sorts.
TEA.	
70	TEA.
OTHER FOOD AND DRINK.	
71	COFFEE.
72	All other sorts of Food and Drink not otherwise specified.
II.—Raw materials and produce and articles mainly unmanufactured—	
GUMS, RESINS AND LAC.	
73	GUMS, RESINS AND LAC, all sorts.
OILS.	
74	All sorts of animal, essential, mineral, and vegetable non-essential oils not otherwise specified (<i>see</i> Nos. 40 and 41).
SEEDS.	
75	SEEDS, all sorts, excluding oil-seeds imported into British India by sea from the territories of any Prince or Chief in India (<i>see</i> No. 6).
TALLOW, STEARINE AND WAX.	
76	TALLOW AND STEARINE, including grease and animal fat, and wax of all sorts not otherwise specified.

SCHEDULE II—IMPORT TARIFF.

PART V—*contd.*Articles which are liable to duty at 15 per cent. *ad valorem*.

No.	Names of Articles.
TEXTILE MATERIALS.	
77	TEXTILE MATERIALS, the following :— Silk waste, and raw silk including cocoons, raw flax, hemp, jute and all other unmanufactured textile materials not otherwise specified.
WOOD AND TIMBER.	
78	WOOD AND TIMBER, all sorts, not otherwise specified, including all sorts of ornamental wood.
MISCELLANEOUS.	
79	CANES AND BATTANS.
80	COWRIES and SHELLS.
81	IVORY, unmanufactured.
82	PRECIOUS STONES, unset and imported out (<i>see</i> No. 5).
83	All other raw materials and produce and articles mainly unmanufactured, not otherwise specified.
III.—Articles wholly or mainly manufactured—	
APPAREL.	
84	APPAREL, including drapery, boots and shoes, and military and other uniforms and accoutrements, but excluding uniforms and accoutrements exempted from duty under No. 11 and gold and silver thread (<i>see</i> Nos. 131 and 132), and articles made of silk (<i>see</i> No. 133).
ARMS, AMMUNITION AND MILITARY STORES.	
85	EXPLOSIVES, namely, blasting gunpowder, blasting gelatine, blasting dynamite, blasting roburite, blasting tonite, and all other sorts, including detonators and blasting fuze.
CARRIAGES AND CARTS.	
86	CARRIAGES AND CARTS, including tram cars, motor-omnibuses, motor-lorries, motor-vans, jinrikshas, bath-chairs, perambulators, trucks, wheel barrows, and all other sorts of conveyances and such component parts and accessories thereof, not otherwise specified, as are not also adapted for use as parts or accessories of motor-cars, motor-cycles, motor-scooters, bicycles or tricycles (<i>see</i> No. 126).
CHEMICALS, DRUGS AND MEDICINES.	
87	CHEMICALS, DRUGS AND MEDICINES, all sorts, not otherwise specified.
CUTLERY, HARDWARE, IMPLEMENTS AND INSTRUMENTS.	
88	CUTLERY excluding plated cutlery (<i>see</i> No. 128).
89	HARDWARE, IRONMONGERY AND TOOLS, all sorts, not otherwise specified.
90	All other sorts of IMPLEMENTS, INSTRUMENTS, APPARATUS AND APPLIANCES and parts thereof, not otherwise specified.
DYES AND COLOURS.	
91	DYEING AND TANNING SUBSTANCES, all sorts, and paints and colours and painters' materials, all sorts.
FURNITURE, CABINETWARE AND MANUFACTURES OF WOOD.	
92	FURNITURE, CABINETWARE and all other manufactures of wood not otherwise specified.
GLASSWARE AND EARTHENWARE.	
93	GLASS AND GLASSWARE, lacquered ware, earthenwarechina and porcelain; all sorts except glass bangles and beads and false pearls (<i>see</i> No. 130).

SCHEDULE II—IMPORT TARIFF.

PART V—*contd.*Articles which are liable to duty at 15 per cent. *ad valorem*.

No.	Names of Articles.
HIDES AND SKINS AND LEATHER.	
94	HIDES AND SKINS not otherwise specified, LEATHER AND LEATHER MANUFACTURES, all sorts, not otherwise specified.
MACHINERY.	
95	MACHINERY AND COMPONENT PARTS thereof, meaning machines or parts of machines to be worked by manual or animal labour, not otherwise specified (<i>see</i> Nos. 15, 16 and 18).
METALS—IRON AND STEEL.	
96	All sorts of IRON AND STEEL and manufactures thereof, not otherwise specified.
METALS OTHER THAN IRON AND STEEL.	
97	All sorts of METALS OTHER THAN IRON AND STEEL, and manufactures thereof, not otherwise specified.
PAPER, PASTEBOARD AND STATIONERY.	
98	PAPER AND ARTICLES MADE OF PAPER AND PAPIER MACHÉ, PASTEBOARD, MILLBOARD, AND CARDBOARD, all sorts, and STATIONERY, including ruled or printed forms and account and manuscript books, drawing and copy books, labels, advertising circulars, sheet or card almanacs and calendars, Christmas, Easter, and other cards, including cards in booklet form, including also wastepaper and old newspapers for packing, but excluding trade catalogues and advertising circulars imported by packet, book, or parcel post (<i>see</i> No. 21).
YARNS AND TEXTILE FABRICS.	
99	<p>YARNS AND TEXTILE FABRICS, that is to say:—</p> <p>Cotton piecegoods, thread other than sewing or darning thread, and all other manufactured cotton goods not otherwise specified.</p> <p>Flax, twist and yarn, and manufactures of flax;</p> <p>Haberdashery and millinery, excluding articles made of silk (<i>see</i> No. 133).</p> <p>Hemp manufactures;</p> <p>Hosiery, excluding articles made of silk (<i>see</i> No. 133).</p> <p>Jute, twist and yarn, and jute manufactures, excluding secondhand or used gunny bags (<i>see</i> No. 22).</p> <p>Silk yarn, noils and warps and silk thread;</p> <p>Woollen yarn, knitting wool, and other manufactures of wool including felt;</p> <p>All other sorts of yarns and textile fabrics, not otherwise specified.</p>
MISCELLANEOUS.	
100	ART, works of, excluding those specified in No. 23.
101	BRUSHES AND BROOMS.
102	BUILDING AND ENGINEERING MATERIALS, including asphalt, bricks, cement, chalk and lime, clay, pipes of earthenware, tiles, and all other sorts of building and engineering materials not otherwise specified.
103	CANDLES.
104	CINEMATOGRAPH FILMS.
105	CORDAGE AND ROPE AND TWINE OF VEGETABLE FIBRE.
106	FURNITURE, TACKLE AND APPAREL, not otherwise described, for steam, sailing, towing and other vessels.

SCHEDULE II—IMPORT TARIFF.

PART V—*consolid.*Articles which are liable to duty at 15 per cent. *ad valorem*.

No.	Names of Articles.
107	MATS AND MATTING.
108	OILCAKES.
109	OILCLOTH AND FLOOR CLOTH.
110	PACKING—ENGINE AND BOILER—all sorts, excluding packing forming a component part of any article included in Nos. 58 and 62.
111	PERFUMERY, not otherwise specified.
112	PITCH, TAR AND DAMMER.
113	POLISHES AND COMPOSITIONS.
114	RUBBER tyres and other manufactures of rubber, not otherwise specified (<i>see</i> No. 138).
115	SOAP.
116	STARCH AND FARINA.
117	STONE AND MARBLE, and articles made of stone and marble.
118	TOILET REQUISITES, not otherwise specified.
119	All other articles wholly or mainly manufactured, not otherwise specified.
	IV.—Miscellaneous and unclassified—
120	CORAL.
121	UMBRELLAS, INCLUDING PARASOLS AND SUNSHADES, AND FITTINGS THEREFOR.
122	All other articles not otherwise specified, including articles imported by post.

SCHEDULE II—IMPORT TARIFF.

PART VI.

Articles which are liable to duty at 30 per cent. *ad valorem*.

No.	Names of Articles.
	I.—Food, Drink and Tobacco.
128	CONFECTIONERY.
	II.—Articles wholly or mainly manufactured.
	ARMS, AMMUNITION AND MILITARY STORES.
124	GUNPOWDER FOR CANNONS, rifles, guns, pistols and sporting purposes.
125	Subject to the exemptions specified in No. 12 all articles other than those specified in entry No. 42 which are arms or parts of arms within the meaning of the Indian Arms Act, 1878 (excluding springs used for air-guns which are dutiable as hardware under No. 89), all tools used for cleaning or putting together the same, all machines for making, loading, closing or capping cartridges for arms other than rifled arms and all other sorts of ammunition and military stores, and any articles which the Governor General in Council may, by notification in the Gazette of India, declare to be ammunition or military stores for the purposes of this Act.
	CARRIAGES AND CARTS.
126	MOTOR CARS, motor cycles, motor scooters, bicycles and tricycles and articles adapted for use as parts and accessories thereof: provided that such articles as are ordinarily also used for purposes other than as parts and accessories of motor vehicles included in this item or in No. 86 or of bicycles or tricycles shall be dutiable at the rate of duty specified for such articles.
	CUTLERY, HARDWARE, IMPLEMENTS AND INSTRUMENTS.
127	CLOCKS AND WATCHES AND PARTS THEREOF.
128	ARTICLES PLATED WITH GOLD AND SILVER.
129	MUSICAL INSTRUMENTS.
	GLASSWARE AND EARTHENWARE.
130	GLASS BANGLES and BEADS and false pearls.
	METALS.
181	GOLD PLATE, gold thread and wire, and gold manufactures, all sorts.
132	SILVER PLATE, silver thread and wire, and silver manufactures, all sorts.
	YARNS AND TEXTILE FABRICS.
133	SILK PIECE-GOODS, and other manufactures of silk.
	MISCELLANEOUS:
184	FIRE-WORKS.
135	IVORY, manufactured.
186	JEWELLERY AND JEWELS.
137	PRINTS, engravings and pictures, including photographs and picture postcards.
188	PNEUMATIC RUBBER TYRES AND TUBES for motor cars, motor lorries, motor cycles, motor scooters, bicycles and tricycles.
139	SMOKERS' REQUISITES, excluding tobacco (Nos. 36 to 38) and matches (No. 46).
140	TOYS, games, playing cards and requisites for games and sports, including bird-shot.

SCHEDULE II.

Schedule to be inserted in the Indian Post Office Act, 1898.

(See section 5.)

"THE FIRST SCHEDULE.**INLAND POSTAGE RATES.**

(See section 7.)

Letters.

For a weight not exceeding two and a half tolas One anna.

For every two and a half tolas, or fraction thereof, exceeding two and a half tolas One anna.

Postcards.

Single Half an anna.

Reply One anna.

Book, Pattern and Sample Packets.

For every five tolas or fraction thereof Half an anna.

Registered Newspapers.

For a weight not exceeding eight tolas Quarter of an anna

For a weight exceeding eight tolas and not exceeding twenty tolas Half an anna.

For every twenty tolas, or fraction thereof, exceeding twenty tolas Half an anna.

Parcels.

For a weight not exceeding twenty tolas Two annas.

For a weight exceeding twenty tolas and not exceeding forty tolas Four annas.

For every forty tolas, or fraction thereof, exceeding forty tolas Four annas "

SCHEDULE III.

(See section 7.)

PART I.*Rates of Income-tax.*

Rate.

A. In the case of every individual, every unregistered firm and every undivided Hindu family—

(1) When the total income is less than Rs. 2,000. *Nil.*

(2) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000. Five pies in the rupee.

(3) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000. Six pies in the rupee.

Rate.

(4) When the total income is Rs. 10,000 or upwards, but is less than Rs. 20,000. Nine pies in the rupee.

(5) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000. One anna in the rupee.

(6) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000. One anna and three pies in the rupee.

(7) When the total income is Rs. 40,000 or upwards. One anna and six pies in the rupee.

B. In the case of every company, and every registered firm, whatever its total income. One anna and six pies in the rupee.

PART II.*Rates of Super-tax.*

In respect of the excess over fifty thousand rupees of total income :—

Rate.

(1) in the case of every company One anna in the rupee.

(2) (a) in the case of every Hindu undivided family—

(i) in respect of the first twenty-five thousand rupees of the excess. *Nil.*

(ii) for every rupee of the next twenty-five thousand rupees of such excess. One anna in the rupee.

(b) in the case of every individual and every unregistered firm, for every rupee of the first fifty thousand rupees of such excess. One anna in the rupee.

(c) in the case of every individual, every unregistered firm and every Hindu undivided family—

(i) for every rupee of the second fifty thousand rupees of such excess. One and a half annas in the rupee.

(ii) for every rupee of the next fifty thousand rupees of such excess. Two annas in the rupee.

(iii) for every rupee of the next fifty thousand rupees of such excess. Two and a half annas in the rupee.

(iv) for every rupee of the next fifty thousand rupees of such excess. Three annas in the rupee.

(v) for every rupee of the next fifty thousand rupees of such excess. Three and a half annas in the rupee.

(vi) for every rupee of the next fifty thousand rupees of such excess. Four annas in the rupee.

(vii) for every rupee of the next fifty thousand rupees of such excess. Four and a half annas in the rupee.

(viii) for every rupee of the next fifty thousand rupees of such excess. Five annas in the rupee.

(ix) for every rupee of the next fifty thousand rupees of such excess. Five and a half annas in the rupee.

(x) for every rupee of the remainder of the excess. Six annas in the rupee.

STATEMENT OF OBJECTS AND REASONS.

1. The object of this Bill is to provide the additional resources referred to in my speech introducing the Budget for 1922-23 and to continue certain provisions of the Indian Finance Act, 1921 (VI of 1921), which would otherwise cease to have effect from the 1st April, 1922.

2. Clause 2 of the Bill provides for the raising of the salt duty from Re. 1-4 to Rs. 2-8 per maund.

3. Clause 3 substitutes a revised tariff schedule. The substantive changes made are :—

- (1) The raising of the general *ad valorem* import duty of 11 per cent. to 15 per cent.
- (2) The raising of the specific import duty of 20 per cent. in the case of certain articles of luxury to 30 per cent.
- (3) The raising of the import duty on machinery, iron and steel and railway material from $2\frac{1}{2}$ per cent. to 10 per cent.
- (4) The raising of the import duty on sugar from 15 per cent. to 25 per cent.
- (5) The raising of the import duty on matches from 12 annas per gross boxes to Re. 1-8 per gross boxes.
- (6) The withdrawal of yarn from the free list and the levy of an *ad valorem* duty of 5 per cent. thereon.
- (7) Increase of the duty on all alcoholic liquors (except wines and denatured spirits) by approximately 20 per cent.
- (8) Increase in the duty on imported petroleum from $1\frac{1}{2}$ annas to $2\frac{1}{2}$ annas per gallon.

4. Clause 4 provides for the enhancement of the excise duty on cotton manufactures from $3\frac{1}{2}$ per cent. to $7\frac{1}{2}$ per cent.

5. Clause 5 lays down new rates of postage, the changes being—

- (i) abolition of the present rates of $\frac{1}{2}$ anna and 9 pies for letters, the minimum in future being one anna for letters not exceeding $2\frac{1}{2}$ tolas in weight and one anna for every additional $2\frac{1}{2}$ tolas or fraction thereof, and
- (ii) raising to half anna the $\frac{1}{2}$ anna postcard.

6. Clause 6 imposes an excise duty of 1 anna per gallon on kerosene produced in India, corresponding to the increase in the import duty referred to in paragraph 3 (8) above.

7. Clause 7 contains the rates of income-tax and super-tax proposed for the year. The only changes in ordinary income-tax are the raising of the rate for incomes between Rs. 30,000 and Rs. 40,000 from 14 pies to 15 pies, and the rate for incomes of Rs. 40,000 and over from 16 pies to 18 pies.

There are no changes in the rates of super-tax up to the present maximum of 4 annas for incomes over $3\frac{1}{2}$ lakhs; thereafter there is a progressive application of the same principle till the new maximum of 6 annas is reached; so that the new rates introduced are as follows :—

- | | |
|--|------------------------|
| (a) in respect of the 1st fifty thousand rupees of taxable income over 4 lakhs | 4½ annas in the rupee. |
| (b) in respect of the 2nd fifty thousand rupees of taxable income over 4 lakhs | 5 annas. |
| (c) in respect of the 3rd fifty thousand rupees of taxable income over 4 lakhs | 5½ annas. |
| (d) in respect of all taxable income over 5½ lakhs of rupees | 6 annas in the rupee. |

8. Clause 8 repeals the Freight Tax Act XIII of 1917. The existing rates of surtax were imposed for the year 1921-22 by section 4 of the Indian Finance Act, 1921. The surtax will be replaced by increased rates on goods traffic on railways from the 1st April, 1922, and in consequence no surtax will be levied from that date. It is necessary, however, for this purpose to repeal Act XIII of 1917, as otherwise the rates originally imposed by that Act would come into force when section 4 of the Indian Finance Act, 1921, ceases to operate.

9. The changes mentioned in paragraphs 2, 3, 4 and 6 are intended to come into effect from the 1st March, 1922; the rest from April 1st. The Bill provides that the changes mentioned in paragraphs 2, 5 and 7 shall remain in force till the 31st March, 1923.

W. M. HAILEY.

The 28th February 1922.

H. MONCRIEFF SMITH,
Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to repeal the Indian Press Act, 1910, and the Newspapers (Incitements to Offences) Act, 1908, and to make certain provisions in regard to the liability of editors of newspapers, and to facilitate the registration of printers and publishers; and to provide for the seizure and disposal of certain documents was presented to the Legislative Assembly on the 1st March, 1922:—

We, the undersigned, Members of the Select Committee to which the Bill to repeal the Indian Press Act, 1910, and the Newspapers (Incitements to Offences) Act, 1908, and to make certain provisions in regard to the liability of editors of newspapers, and to facilitate the registration of printers and publishers; and to provide for the seizure and disposal of certain documents, was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Khan Bahadur Mir Asad Ali and Rai Jadunath Mazoomdar Bahadur were prevented from attending any of the meetings of the Committee. Maulvi Abul Kasem and Mr. M. K. Reddi missed the last meeting.

We have very carefully considered clause 2 of the First Schedule which amends section 5 of the Press and Registration of Books Act, 1867. We are of opinion that much of the criticism which has been levelled against this clause is based on the fact that it required the editor's name to be printed on the front page of a newspaper. We think the purposes of the law will be sufficiently served if the editor's name appears clearly in any part of the issue, and we have made an amendment to effect this.

In clause 5 of the same Schedule, which introduces a new section 8A in Act XXV of 1867, we have made small amendments which will relieve the Magistrate in some cases of the necessity of himself making the inquiry contemplated by the section, and which will allow him to extend for sufficient cause the period within which a declaration is to be made by a person whose name wrongly appears as editor of a newspaper.

We have reduced the pecuniary penalty in sections 12, 13, 14 and 15 of the same Act from five thousand rupees to two thousand rupees.

The new provisions to be introduced in the Sea Customs Act, 1878, and the Indian Post Office Act, 1898, enabling certain officers to detain packages and postal articles suspected to contain seditious matter, allow any person interested to apply to the Local Government within two months of the detention for the release thereof. We think that provision should be made requiring any officer exercising these powers to give notice forthwith to the consignee or addressee of any package or article detained, where such notice is practicable, and we have introduced amendments in the Second and Fourth Schedules of the Bill to give effect to this.

In clause 1 of the Third Schedule we have made a slight amendment in new section 99D to be introduced in the Code of Criminal Procedure, 1898, in order to remove any doubt that may exist as to the nature of the proof which may be required by a Special Bench hearing applications under these new provisions of the Code.

The other amendments made in the Bill are of a purely drafting nature,

2. The Bill was published in the Gazette of India, dated the 17th September, 1921.

3. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

TEJ BAHADUR SAPRU.
W. H. VINCENT.
P. E. PERCIVAL.
JAWAHAR LAL BHARGAVA.
ISWAR SARAN.
N. M. SAMARTH.
ABUL KASEM.
M. K. REDDI.

The 24th February, 1922.

[AS AMENDED BY THE SELECT COMMITTEE.]

(Words printed in italics indicate the amendments made by the Committee.)

A Bill to repeal the Indian Press Act, 1910, and the Newspapers (Incitements to Offences) Act, 1908, and to make certain provisions in regard to the liability of editors of newspapers, and to facilitate the registration of printers and publishers; and to provide for the seizure and disposal of certain documents.

WHEREAS it is expedient to repeal the Indian Press Act, 1910, and the Newspapers (Incitements to Offences) Act, 1908, and to make further provision in the Press and Registration of Books Act, 1867, for the liability of editors of newspapers in civil and criminal proceedings, and to make certain amendments in that Act in order to facilitate the registration of printers and publishers; and to provide in the Sea Customs Act, 1878, the Code of Criminal Procedure, 1898, and the Indian Post Office Act, 1898, for the seizure and disposal of certain documents; It is hereby enacted as follows:—

1. (1) This Act may be called the Press Law
Short title and extent. Repeal and Amendment Act, 192 .

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

2. (1) The Newspapers (Incitements to Offences) Act, 1908, and the Indian Press Act, 1910, are hereby repealed.

(2) Nothing in sub-section (1) shall be deemed to invalidate any order made under section 12 of the Indian Press Act, 1910, before the commencement of this Act, forfeiting any newspaper, book or other document; and any newspaper, book or other document forfeited in accordance with such order shall be deemed to be forfeited in accordance with the provisions of section 99A of the Code of Criminal Procedure, 1898, except that no application under section 99B of that Code shall lie in respect of the forfeiture of any such newspaper, book or document, if forfeited more than two months before the commencement of this Act.

3. The amendments set forth in the First Schedule shall be made in the Press and Registration of Books Act, 1867.

4. The amendments set forth in the Second Schedule shall be made in the Sea Customs Act, 1878.

5. The amendments set forth in the Third Schedule shall be made in the Code of Criminal Procedure, 1898.

6. The amendments set forth in the Fourth Schedule shall be made in the Indian Post Office Act, 1898.

THE FIRST SCHEDULE.

(See section 3.)

THE PRESS AND REGISTRATION OF BOOKS ACT,
1867 (XXV OF 1867).

1. In section 1, after the definition of "British India," the following definition, namely:—

" 'editor' means the person who controls the selection of the matter that is published in a newspaper," and after the definition of "Magistrate" the following definition, namely:—

" 'newspaper' means any printed periodical work containing public news or comments on public news," shall be inserted.

2. In section 5—

(a) For the words "printed periodical work containing public news or comments on public news," the word "newspaper" shall be substituted;

(b) After the words "hereinafter laid down" the following clause shall be inserted, namely:—

" (1) Every copy of every such newspaper shall contain the name of the person who is the editor thereof printed clearly on such copy as the name of the editor of that newspaper; "

(c) Clauses (1), (2) and (3) shall be re-numbered (2), (3) and (4);

(d) In clause (2) as re-numbered, for the words "before the Magistrate within whose local jurisdiction such work shall be published" the words "in person or by agent authorized in this behalf in accordance with rules made under section 20, before a District, Presidency or Sub-divisional Magistrate within whose local jurisdiction such newspaper shall be printed or published, or such printer or publisher resides," shall be substituted, and for the words "periodical work" the word "newspaper" shall be substituted;

(e) After clause (4) as re-numbered, the following proviso shall be inserted, namely:—

"Provided that no person who has not attained majority in accordance with the provisions of the Indian Majority Act, 1875, or of the law to which he is subject in respect of the attainment of majority, shall be

1X of 1875.

permitted to make the declaration prescribed by this section, nor shall any such person edit a newspaper."

3. In section 7—

(a) After the words "custody of such declarations," the words "or, in the case of the editor, a copy of the newspaper containing his name printed on it as that of the editor";

(b) After the words "to such declaration," the words "or printed on such newspaper, as the case may be";

(c) After the words "in the declaration," the words "or the editor of every portion of that issue of the newspaper of which a copy is produced," shall be inserted.

4. In sections 7, 8 and 9, for the words "periodical work" wherever they occur, the word "newspaper" shall be substituted.

5. After section 5, the following section shall be inserted, namely :—

"8A. If any person, whose name has appeared as editor on a copy of a newspaper, published as editor may claim that he was not make a declaration the editor of the issue on before a Magistrate. which his name has so appeared, he may, within two weeks of his becoming aware that his name has been so published, appear before a District, Presidency or Sub-divisional Magistrate and make a declaration that his name was incorrectly published in that issue as that of the editor thereof, and if the Magistrate after making such inquiry or causing such inquiry to be made as he may consider necessary is satisfied that such declaration is true, he shall certify accordingly, and on that certificate being given the provisions of section 7 shall not apply to that person in respect of that issue of the newspaper.

The Magistrate may extend the period allowed by this section in any case where he is satisfied that such person was prevented by sufficient cause from appearing and making the declaration within that period."

6. After section 11, the following section shall be inserted, namely :—

"11A. The printer of every newspaper in British India shall deliver at such place and to such officer as the Local Government may, by notification in the local official Gazette, direct, and free of expense to the Government, two copies of each issue of such newspaper as soon as it is published."

7. In sections 12, 13, 14 and 15, for the words "two years," wherever they occur, the words "six months," and for the words "five thousand" wherever they occur, the words "two thousand" shall be substituted.

8. In section 15—

(a) After the words "whoever shall" in the two places where they occur, the word "edit" shall be inserted;

(b) For the words "such periodical work as is hereinbefore described," the word "newspaper" shall be substituted;

(c) After the words "shall cause to be," the word "edited" shall be inserted;

(d) For the words "such periodical work," where they occur for the second time, the word "newspaper" shall be substituted; and

(e) For the words "that work," the words "that newspaper" shall be substituted.

9. After section 16, the following section shall be inserted, namely :—

"16A. If any printer of any newspaper published in British India neglects to deliver copies of the same in compliance with section 11A, he shall, on the complaint of the officer to whom copies should have been delivered or of any person authorised by that officer in this behalf, be punishable, on conviction by a Magistrate having jurisdiction in the place, where the newspaper was printed, with fine which may extend to fifty rupees for every default."

THE SECOND SCHEDULE.

(See section 4.)

THE SEA CUSTOMS ACT, 1878 (VIII OF 1878).

After section 181, the following sections shall be inserted, namely :—

"181A (1). The Chief Customs-officer or other officer authorised by the Local Government in this behalf may detain any package, brought whether by land or sea into British India which he suspects to contain—

(a) any newspaper or book as defined in the Press and Registration of Books Act, 1867, or XXV of 1867.

(b) any document,

containing any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Indian Penal Code, and shall forward such package to such officer as the Local Government may appoint in this behalf. XLV of 1860.

(2) Any officer detaining a package under the provisions of sub-section (1) shall, where practicable, forthwith send by post to the addressee or consignee of such package notice of the fact of such detention.

(3) The Local Government shall cause the contents of such package to be examined, and if it appears to the Local Government that the package contains any such newspaper, book or other document, containing any such seditious matter, may pass such orders as to the disposal of the package and its contents as it may deem proper, and, if it does not so appear, shall release the package and its contents unless the same be otherwise liable to seizure under any law for the time being in force:

Provided that any person interested in any package detained under the provisions of this section may, within two months from the date of such detention, apply to the Local Government for release of the same, and the Local Government

shall consider such application and pass such orders thereon as it may deem to be proper :

Provided, further, that, if such application is rejected, the applicant may, within two months from the date of the order rejecting the application, apply to the High Court for release of the package or its contents on the ground that the package did not contain any such newspaper, book or other document containing any such seditious matter.

(4) In this section "document" includes also any painting, drawing or photograph, or other visible representation.

181B. Every application under the second proviso to sub-section (3)

Procedure for disposal by High Court of applications for release of packages so detained.

of section 181A shall be heard and determined, in the manner provided by sections 99D to 99F of

of 1898.

the Code of Criminal Procedure, 1898, by a Special Bench of the High Court constituted in the manner provided by section 99C of that Code.

181C. No order passed or action taken under section 181A shall be called in question in any Court otherwise than in accordance with the second proviso to sub-section (3) of that section."

THE THIRD SCHEDULE.

(See section 5.)

THE CODE OF CRIMINAL PROCEDURE, 1898 (V of 1898).

1. After section 99, the following sections shall be inserted, namely :—

"99A. (1) Where—

Power to declare certain publications forfeited, and to issue search-warrants for the same.

(a) any newspaper, or book as defined in the Press and Registration of Books Act, 1867, or

(b) any document,

wherever printed, appears to the Local Government to contain any seditious matter, that is to say, any matter the publication of which is punishable under section 124A of the Indian Penal Code, the Local Government may, by notification in the local official Gazette, stating the grounds of its opinion, declare such newspaper, book or other document to be forfeited to His Majesty, and thereupon any police-officer may seize the same, wherever found in British India, and any Magistrate may by warrant authorise any police-officer not below the rank of sub-inspector to enter upon and search for the same in any premises where the newspaper, book or other document may be or may be reasonably suspected to be.

(2) In sub-section (1) "document" includes also any painting, drawing or photograph, or other visible representation.

99B. Any person having any interest in any newspaper, book or other document, in respect of which an order of forfeiture has been made under

section 99A, may, within two months from the date of such order, apply to the High Court to set aside such order on the ground that the newspaper, book or other document, in respect of which the order was made, did not contain any seditious matter.

99C. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges.

99D. (1) On receipt of the application, the Special Bench shall, if it is not satisfied that the newspaper, book or other document, in respect of which the application has been made, contained seditious matter of the nature referred to in sub-section (1) of section 99A, set aside the order of forfeiture.

(2) Where there is a difference of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority of those Judges.

99E. On the hearing of any such application with reference to any newspaper, any copy on such newspaper may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such newspaper, which are alleged to be seditious matter.

99F. Every High Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed, the practice of such Courts in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.

99G. No order passed or action taken under section 99A shall be called in question in any Court, otherwise than in accordance with the provisions of section 99B."

2. In section 101 after the words "section 98" the words "section 99A" shall be inserted.

THE FOURTH SCHEDULE.

(See section 6.)

THE INDIAN POST OFFICE ACT, 1898 (VI of 1898).

After section 27, the following sections shall be inserted, namely :—

"27A. No newspaper printed and published in British India without mission by post of certain newspapers. conforming to the rules laid down in the Press and Registration of Books Act, 1867, shall be transmitted by post. XXV of 1867.

27B. (1) Any officer in charge of a post office or authorised by the Postmaster-General in this behalf may detain any

XV of 67.

LV of 1860.

postal article in course of transmission by post which he suspects to contain—

XXV of
1867.

(a) (i) any newspaper or book as defined in the Press and Registration of Books Act, 1867; or

(ii) any document;

XIV of 1860.

containing any seditious matter, *that is to say, any matter the publication of which is punishable under section 124 A of the Indian Penal Code;* or

XXV of
1867.

(b) any newspaper as defined in the Press and Registration of Books Act, 1867, edited, printed or published otherwise than in conformity with the rules laid down in that Act;

and shall deliver any postal article so detained to such officer as the Local Government may appoint in this behalf.

(2) *Any officer detaining any postal article under the provisions of sub-section (1) shall forthwith send by post to the addressee of such article notice of the fact of such detention.*

(3) The Local Government shall cause the contents of any postal article detained under sub-section (1) to be examined, and, if it appears to the Local Government that the article contained any newspaper, book or other document, of the nature described in clause (a) or clause (b) of sub-section (1), may pass such orders as to the disposal of the article and its contents as it may deem proper, and, if it does not so appear, shall release the article and its contents, unless the

same be otherwise liable to seizure under any law for the time being in force:

Provided that any person interested in any article detained under the provisions of clause (a) of sub-section (1) may, within two months from the date of such detention, apply to the Local Government for release of the same, and the Local Government shall consider such application and pass such orders thereon as it may deem to be proper:

Provided also that, if such application is rejected the applicant may, within two months from the date of the order rejecting the application, apply to the High Court for release of the article and its contents on the ground that the article did not contain any newspaper, book or other document containing any seditious matter:

(4) In this section "document" includes also any painting, drawing or photograph, or other visible representation.

27C. Every application made under the second proviso to sub-section (3) of section 27B shall be heard and determined in the manner provided by sections 99D to 99F of the Code of Criminal

Procedure, 1898, by a Special Bench of the High Court constituted in the manner provided by section 99C of that Code. V of 189.

27D. No order passed or action taken under section 27B shall be called in question in any Court otherwise than in accordance with the second proviso to sub-section (3) of that section."

H. MONCRIEFF SMITH,
Secretary to the Government of India.

